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**Master's Thesis**

**2019**

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**Child Soldiers: Recruitment and Abuse of Children in  
Armed Conflicts**

Master's thesis

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Year of the defence: 2019

## **Declaration**

1. I hereby declare that I have compiled this thesis using the listed literature and resources only.
2. I hereby declare that my thesis has not been used to gain any other academic title.
3. I fully agree to my work being used for study and scientific purposes.

In Prague on 10. 05. 2019

Karolina Karásková

## References

KARÁSKOVÁ, Karolina. *Child Soldiers: Recruitment and Abuse of Children in Armed Conflicts*. Praha, 2019. 101 pages. Master's thesis (Mgr.). Charles University, Faculty of Social Sciences, Institute of Political Studies. Department of International Relations. Supervisor PhDr. Radana Makariusová, Ph.D.

**Length of the thesis:** 235 012 characters

## **Abstract**

The main aim of this Master's thesis is to analyse how children are recruited and abused as soldiers in armed conflicts, and how international humanitarian law protects their rights. The thesis is divided in two main parts, theoretical and empirical. In theoretical part are introduced the most important documents of international humanitarian law and international human rights law, including international governmental and non-governmental organizations which promote these rights. In empirical part, the author focuses on case studies, namely the case of the Lord's Resistance Army (LRA) and the case of the Islamic State of Iraq and Syria (ISIS). The author was not interested in finding similarities in these two cases, but conversely, to point out on the uniqueness of each case. To precise, the thesis is analysing reasons for the recruitment and abuse of children by the LRA and ISIS, and the legal responsibility of both groups. The author of this thesis chose as a methodology an instrumental case study which is useful for providing a general understanding of a phenomenon by using a particular case. In addition, this methodology is convenient for interpretation of legal documents, and two selected cases serve as instruments for interpreting the recruitment and abuse of children in armed conflicts. The results of the research show that the international humanitarian law is not completely able to protect children from the involvement in armed conflicts, especially during non-international armed conflicts. The issue has remained with the law's application in practice which undermines its effectiveness, and for this reason it is necessary to support the further development of the international humanitarian law over time.

## **Abstrakt**

Cílem této magisterské práce je zanalyzovat, jak jsou děti rekrutovány a zneužívány jako vojáci v ozbrojených konfliktech, a jakou ochranu jim mezinárodní humanitární právo poskytuje. Práce je rozdělena na dvě hlavní části, teoretickou a empirickou. V teoretické části jsou představeny nejdůležitější dokumenty mezinárodního humanitárního práva a mezinárodního práva v oblasti lidských práv včetně mezinárodních vládních a nevládních organizací, jež tato práva podporují. V empirické části se autorka zaměřuje na případové studie, konkrétně na případ Armády božího odporu a na případ Islámského státu. Autorka se nesnažila najít podobnosti v těchto dvou případech, ale naopak poukázala na jejich

jedinečnost. Práce analyzuje důvody náboru a zneužívání dětí ze strany Armády božího odporu a Islámského státu, včetně právní odpovědnosti obou skupin. Autorka této práce si jako metodologii zvolila instrumentální případovou studii, která je užitečná pro obecné pochopení fenoménu pomocí konkrétního případu. Tato metodologie je navíc vhodná pro výklad právních dokumentů a dva vybrané případy slouží jako nástroje pro interpretaci náboru a zneužívání dětí v ozbrojených konfliktech. Výsledky tohoto výzkumu ukazují, že mezinárodní humanitární právo není zcela schopno ochránit děti před jejich zapojením do ozbrojených konfliktů, zejména v případech, kdy se jedná o vnitrostátní ozbrojené konflikty. Hlavním problémem zůstává aplikace práva v praxi, což podkopává jeho účinnost, a proto je nutné podporovat další rozvoj mezinárodního humanitárního práva i do budoucna.

## **Keywords**

Child soldiers, recruitment of children, abuse of children, armed conflict, international humanitarian law, children's rights, Lord's Resistance Army, Islamic State

## **Klíčová slova**

Dětsí vojáci, nábor dětí, zneužívání dětí, ozbrojený konflikt, mezinárodní humanitární právo, dětská práva, Armáda božího odporu, Islámský stát

## **Název práce**

Dětsí vojáci: Rekrutování a zneužívání dětí v ozbrojených konfliktech

## **Acknowledgement**

I would like to express my gratitude to my thesis advisor, PhDr. Radana Makariusová, Ph.D, for her valuable advices during the writing process of my Master's Thesis.

# Table of Contents

<b>Table of Contents .....</b>	<b>1</b>
<b>List of Abbreviations.....</b>	<b>3</b>
<b>Introduction .....</b>	<b>5</b>
<b>1. Conceptualization of basic terms and the development of children’s rights .....</b>	<b>8</b>
1.1 <i>The Concept of a Child.....</i>	8
1.2 <i>Definition of a Child Labor and a Child Soldier.....</i>	9
1.3 <i>Definition of International Humanitarian Law .....</i>	10
<b>2. Research design .....</b>	<b>11</b>
2.1 <i>Research method.....</i>	11
2.2 <i>Operationalization.....</i>	13
2.3 <i>Data collection and shortcomings of the research.....</i>	14
<b>3. The legal framework for child protection in armed conflicts .....</b>	<b>15</b>
3.1 <i>The Geneva Conventions and Additional Protocols I, II, III .....</i>	15
3.2 <i>Protecting the rights of refugees and those internally displaced.....</i>	19
3.3 <i>The Mine Ban Treaty .....</i>	20
3.4 <i>The Declaration of the Rights of the Child and the Convention on the Rights of the Child.....</i>	21
3.5 <i>The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.....</i>	21
3.6 <i>ILO Conventions Nos. 138 and 182 .....</i>	24
3.7 <i>The African Charter on the Rights and Welfare of the Child and the Cape Town Principles...25</i>	
3.8 <i>The Paris Commitments and Principles .....</i>	26
3.9 <i>The Rome Statute of the International Criminal Court.....</i>	27
3.10 <i>International standards and national action.....</i>	28
<b>4. The role of international governmental and non-governmental organizations.....</b>	<b>29</b>
4.1 <i>The United Nations .....</i>	29
4.2 <i>The Special Representative of the Secretary-General for Children and Armed Conflict (SRSG/CAAC) .....</i>	31
4.3 <i>United Nations Children’s Fund (UNICEF).....</i>	33
4.4 <i>International Labour Organization (ILO).....</i>	34
4.5 <i>Invisible Children .....</i>	35
4.6 <i>Watchlist on Children and Armed Conflict .....</i>	37



4.7 <i>Child Soldiers International</i> .....	38
<b>5. Case Study: the Lord's Resistance Army</b> .....	<b>40</b>
5.1 <i>Context</i> .....	40
5.2 <i>Reasons for the recruitment</i> .....	43
5.3 <i>Training process</i> .....	44
5.4 <i>Abuse of children</i> .....	44
5.5 <i>The legal protection of children in Uganda</i> .....	45
5.6 <i>Implementation of International Humanitarian Law</i> .....	46
5.7 <i>Disarmament, Demobilization, and Reintegration</i> .....	53
<b>6. Case Study: ISIS</b> .....	<b>55</b>
6.1 <i>Context</i> .....	56
6.2 <i>Reasons for the recruitment</i> .....	58
6.3 <i>Training process</i> .....	59
6.4 <i>Abuse of Children</i> .....	60
6.5 <i>The legal protection of children in Iraq and Syria</i> .....	61
6.5.1. <i>The Legal Framework of the use of children by the Islamic State</i> .....	64
6.6 <i>Implementation of International Humanitarian Law</i> .....	65
6.7 <i>Disarmament, Demobilization, and Reintegration</i> .....	70
<b>Conclusion</b> .....	<b>71</b>
<b>List of References</b> .....	<b>76</b>
<b>Master's Thesis Summary</b> .....	<b>90</b>
<b>List of Appendices</b> .....	<b>100</b>
<b>Appendices</b> .....	<b>101</b>

## **List of Abbreviations**

**CCM:** Convention on Cluster Munitions

**CCW:** Convention on Certain Conventional Weapons

**CRC:** Convention on the Rights of the Child

**DDR:** Disarmament, Demobilization, Reintegration

**DRC:** Democratic Republic of the Congo

**HSM:** Holy Spirit Movement

**ICC:** International Criminal Court

**ICRC:** International Committee of the Red Cross

**IHL:** International Humanitarian Law

**IHRL:** International Human Rights Law

**ILC:** International Law Commission

**ILO:** International Labour Organization

**IPEC:** International Programme on the Elimination of Child Labour

**ISIS:** Islamic State in Iraq and Syria

**LRA:** Lord's Resistance Army

**NRA:** National Resistance Army

**OHCHR:** Office of the United Nations High Commissioner for Human Rights

**OPAC:** Optional Protocol on the Involvement of Children in Armed Conflict

**SRS/CAAC:** Office of the Special Representative of the Secretary-General for Children and Armed Conflict

**UN:** United Nations

**UNHCR:** United Nations High Commissioner for Refugees

**UNICEF:** United Nations International Children's Emergency Fund

**UNIDIR:** United Nations Institute for Disarmament Research

**UPDA:** Uganda People's Democratic Army

**UPDF:** Uganda People's Defence Forces

**VCLT:** Vienna Convention on the Law of Treaties

**WW:** World War

## **Introduction**

The contemporary world is full of violent conflicts from which many of them are not just between states, like it was in the past, but also among intrastate actors. In those wars are usually involved armed groups, representing the state, and one or more non-state armed groups, which very often use innocent civilians including children. These children are recruited and abused as child soldiers in many fighting groups around the world. The number of child soldiers in revolutionary or terrorist groups have grown significantly, and despite the existence of several conventions, created by the international community, the problem of child soldiers has not been unresolved yet. It is estimated that around 250 000 children are recruited and involved in more than 30 conflicts worldwide (UNICEF undated a, p. 1). The UN Secretary-General publishes every year the Children and Armed Conflict report which consists of violations committed against children during the previous 12 months. In 2018 was released a document that evaluate the previous period of year 2017. This document shows that the UN verified more than 21 000 violations of children's rights worldwide, including their recruitment and abuse in armed conflicts (Child Soldiers International undated a).

The main aim of this Master's thesis is to analyse how children are recruited and abused as soldiers in armed conflicts, and how the international humanitarian law protects their rights. The thesis is divided in two parts, theoretical and empirical. In the first part, the author will focus on the conceptualization of children's rights (e.g. definitions of a child and child soldiers) because the recruitment and abuse of children in armed conflict is considered as a violation, since the norm against the use of child soldiers was stated by the international community in 1989 (Child Soldiers International 2016a). Consequently, the main part of this thesis is going to present international humanitarian law (IHL) and international human rights law (IHRL) that was created in order to protect children's rights. Specifically, the author will focus on the Geneva Conventions and their Additional Protocols, the Convention Relating to the Status of Refugees and its Protocol, the Ban Mine Treaty, the Declaration of the Rights of the Child, the Convention on the Rights of the Child, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Because the thesis, among others, is going to focus on the African continent, the author assumes important to mention the African Charter on the Rights and Welfare of the Child, and the Cape Town Principles as well as the Worst Forms of Child Labour

Convention. Last but not least, will be mentioned the International Criminal Court which was established in Hague for the prosecution of culprits of the most serious crimes committed in territories or by nationalities of signatory states to the Rome Statute (ICC undated). The next chapter is going to be composed of the main activities of international governmental (UN Special Representative of the Secretary-General on violence against children, United Nations Children's Fund (UNICEF) and International Labour Organization (ILO)) and non-governmental organizations (Invisible Children, Watchlist on Children and Armed Conflict and Child Soldiers International) that are the major proponents of children's rights, and which try to spread the awareness of the issue of child soldiers as well as their legal protection.

In empirical part, the author will focus on particular cases from practice, namely the case of the Lord's Resistance Army (LRA) and the case of the Islamic State of Iraq and Syria (ISIS). These two cases were selected because for both groups is typical that they recruit members who are under the age of 18, and thus they commit grave violations of customary international humanitarian law (Byaruhanga 2017). Specifically, the first case is going to present how revolutionary group used child soldiers in fighting against state armed forces, because during the conflict with the LRA thousands of children were abducted. The group was led by Joseph Kony, who terrorised children in northern Uganda, and wanted to govern there by the Biblical Ten Commandments. The army consisted of 75 % of children and youth. These children were forced into many violent acts, and the LRA used tactics like isolation, intimidation, physical and psychical torturing, especially to those who disobeyed commanders (Wessells 2005, p. 364). However, the recruitment of children into armed groups is not connected just with regions in Africa, but the problem has started to escalate even in the Middle East. Over the last few years, many rebel and non-state armed groups have started to recruit and use children for their purposes, nevertheless, practices used by the Islamic State (ISIS) include the worst form of violence. This case was chosen because it demonstrates how the non-state armed group in armed conflict recruits children for reaching their objectives. ISIS' child soldiers have received the most attention because of their distinctive roles which they play among the group, moreover ISIS leaders threat them exactly the same as adult soldiers (McLaughlin 2016).

It can be claimed that it exists several reasons why children have become soldiers. Many of them do not have any material or family environment, and because they are

abandoned or orphans, they join armed groups “voluntarily”, which can be seen especially in the case of ISIS. On the contrary, they can be kidnapped from their own families and then recruited, which is more typical for the LRA (UNICEF undated a, p. 1). Children usually spend some time in training camps where after hard physical training a lot of them die. Those who survive the training process obtain roles such as fighters, messengers, cooks, spies, porters etc. Girls are very often forced into marriage or sexual slavery (Human Rights Watch undated). Protecting children from these atrocities is a legal responsibility and challenge for the international peace and security.

Research on the involvement of children in armed conflicts is heavily based on the existing international law which will serve as the author's theoretical framework. Moreover, data from workings of governmental and non-governmental organizations will be used as well, mainly their official documents and reports which examine how children were treated in both conflicts. These information will be utilized in empirical part of this thesis for analysing how international humanitarian law functions in practice. Collected data from the first part will be applied to cases of the LRA and ISIS, more precisely, empirical part is going to analyse main motivations for child recruitment, training process, child abuse, whether and how the international humanitarian law can be implemented, and the process of disarmament, demobilization, and reintegration (DDR). After the analyses of these two cases, the author will finally summarize all of the findings which help answering the research questions defined as follows: What are the weak and strong sides of international humanitarian law which was adopted in order to protect children's rights? What are the main differences in motivations for using child as a soldier in a revolutionary group the LRA and a jihadist group the Islamic State? And is there any possibility to find out common features between these two cases? For this reason, the author will use the method of an instrumental case study which is convenient for explanation how children are used as soldiers in armed conflicts, moreover pointing out on uniqueness of each case offers a broader analytical perspective related to this topic. The methodology will be closer specified in chapter 2 of this thesis.

The phenomenon of child soldiers is more discussed in English written publications and articles, because in Czech environment this problem is not very common, and thus none of Czech authors is sufficiently interested in this issue. For this reason, the author will mainly work with English sources in the thesis, more precisely, with international legal framework

which was created in order to protect children's rights. It is important to mention that those documents consist of a huge amount of information which the author will not need to use for this topic, and therefore it will be interpreted just those parts which are crucial for the aim of this thesis. Besides international treaties and protocols, information from official web sites and documents from governmental as well as non-governmental organizations will be used as well, because these organizations are involved in protection of children's rights, such as the United Nations, UNICEF, ILO, Human Rights Watch, Invisible Children etc. that can be considered as relevant and verified sources.

## **1. Conceptualization of basic terms and the development of children's rights**

This chapter is focused on definitions of basic terms which are crucial for this topic, and with which the author is going to work in the thesis. Firstly, it will be presented the concept of a child on the basis of the Convention on the Rights of the Child. Subsequently, the author is going to focus on the definition of a child labour and a child soldier, because these two terms relate to each other. In the next part of this chapter will be defined international humanitarian law, because the international legal framework is a crucial part of this thesis. Moreover, differences between IHL and IHRL will be presented as well. After the explanation of these basic terms, follows the next chapter which is focused on the international legal framework for the protection of children's rights. Especially, the most important documents, which were adopted as a prevention for the recruitment and abuse of children during armed conflicts, will be illustrated.

### **1.1 The Concept of a Child**

The concept of childhood can be marked as a "social construct" because in every single society are different demands and expectations from children. Researches that are focused on this issue point out, that it exists different perception of a child in the Western world and in other parts of the world. For example, in African countries we can observe that children in a very early age have to work and contribute to the family in almost every field instead of attending school (Montgomery 2013). This situation has started to be untenable, and therefore the legal framework was created in order to help to enshrine the concept of a child within an international society.

The definition of a child was created on the basis of the Convention on the Rights of the Child which was adopted in 1989 under the United Nations. In the Convention is written that: “[a] child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier” (OHCHR undated a, Article 1).

## **1.2 Definition of a Child Labor and a Child Soldier**

It is important to mention that the phenomenon of child soldiers is not a new practice. Children were recruited as soldiers even in Greek and Roman times, for military activities in Egypt, in the US Civil War, and during World War I and II, as well. However, international norms have evolved considerably, and for this reason the recruitment and use of children in hostilities must stop being a common practice (Faulkner 2016, p. 213).

For better understanding of the issue of child soldiers it is necessary to focus on child labour as well, because it is the first stage of children’s abuse. According to the International Labour Organization (ILO), not every work done by children can be considered as a child labour. We have to make differences between it, because when children are helping their parents at home, supporting family business, or just doing some part-time job after school, we cannot talk about child labour. However, when these practices affect their well-being, personal growth, or intervene their education, this can be marked as a child labour. ILO defines a child labour as: “[w]ork that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development” and “[i]t refers to work that: is mentally, physically, socially or morally dangerous and harmful to children; and interferes with their schooling by: depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work “ (ILO undated a).

Whether or not a particular form of “work” is considered as a child labour, depends on other factors including children's age, condition under which the work is done, working hours or sectors, and objectives of work. However, many cases are marked as a child labour, moreover children can be involved in more extreme forms of a child labour, such as slavery or even used in armed conflicts where they are very often separated from their families (ILO undated a). In many conflicts around the world children thus take a direct part, and it exists several reasons why they have become soldiers. Some of them are recruited for military activities, and they kill and commit other violent acts, while others are used as cooks, spies,



porters, messengers, and they are also sexually abused, especially girls. These children are called child soldiers, and the UN definition for them is: “[A] child associated with an armed force or armed group refers to any person below 18 years of age who is, or who has been, recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, spies or for sexual purposes” (United Nations: Children and Armed Conflict undated).

### **1.3 Definition of International Humanitarian Law**

Because the author is going to work with the most important documents of international humanitarian law (IHL), it is necessary to mention its general definition. International humanitarian law applicable in armed conflict includes: „[i]nternational rules, established by treaty or custom, which are specifically intended to solve humanitarian problems that arise directly from international or non-international armed conflicts. For humanitarian reasons, these rules protect persons and property that are, or may be, affected by conflict by limiting conflicting parties’ rights to choose their methods and means of warfare“ (Bouvier 2012, p. 13). Additionally, the author is going to present international human rights law which has the same objective as IHL, like protecting civilians, nevertheless the main differences are in their respective origin and developments. Firstly, human rights law developed at domestic level, and its international character gained by its compliance with international law, whereas IHL comes from international initiative. Some rights (e.g. right to life, perception of torture or ill-treatment) are initiated at both levels, however some questions and issues are addressed just to IHR or just to IHRL and its treaties. When it comes to their implementation, there are also clear differences, although they are linked to each other. IHL is applicable in times of international as well as non-international armed conflict, while IHRL is applicable at all times, for instance during armed conflict but also during peacetime. IHRL must not contravene rules of IHL. More precisely, IHL binds all entities that are involved in armed conflict, whereas IHRL binds governments that laid down some laws, and thus it refers to its relationship with individuals (Bouvier 2012, p. 84–86).

## **2. Research design**

### **2.1 Research method**

The main aim of this thesis is to analyse how children are recruited and abused as soldiers in armed conflicts, and how international humanitarian law protects their rights. Although, the thesis is going to analyse two cases, the specificity lies in the fact that it will not make their comparison. The thesis is conceived as an instrumental case study which intention is to provide an illustration of the issue of child soldiers. In the thesis are 3 research questions, the instrumental issues of this work that were posed in introduction as follows: What are the weak and strong sides of international humanitarian law which was adopted in order to protect children's rights? What are the main differences in motivations for using child as a soldier in a revolutionary group the LRA and a jihadist group the Islamic State? And is there any possibility to find out common features between these two cases? For answering the first research question are going to be used information from third, fifth, and sixth chapters. For answering the second and the third research questions, information from the fifth and sixth chapters will be used, mainly by analysis and evaluation of both cases. All 3 research questions will be answered in conclusion.

The research is going to be divided in 6 parts, more precisely in 6 main chapters. The first chapter is focusing on the conceptualization of children's rights and basic definitions, because with these terms the author will be working in the whole thesis. The second chapter of the thesis is the current one, explaining the research design of this work. The third and fourth chapters are theoretical ones that are going to introduce the legal framework for children's protection in armed conflicts, especially the third chapter is going to focus on international humanitarian law which is crucial for this thesis, nevertheless the author assumes important to mention international human rights law as well, for presenting an overall framework for child protection. In the fourth chapter is going to be present how this framework is supported and promoted by international governmental and non-governmental organizations. The fifth and sixth chapters are focusing on particular case studies analysed in this thesis, one case study per one chapter. Finally, all findings will be summarized in conclusion.

Regarding to methodology, it is probably not a strong side of international law in general, and thus the theory and practice of treaty interpretation form a classical subject of the law of

treaties. Similarly, to other parts of international law, the academic interest in this topic has developed over time. Most of the interpretative arguments were made before the establishment of international courts and tribunals, and were used in judicial reasoning that were mentioned in the early writings of lawyers such as Hersch Lauterpacht, Arnold McNair or Gerald Fitzmaurice, and later in the work of the UN International Law Commission (ILC) which resulted in the Vienna Convention on the Law of Treaties (VCLT) (Van Damme 2012). “[A]cademic writing has focused primarily on judicial pronouncements on the meaning of a treaty and on the process through which interpretative conclusions are reached. Treaty interpretation, as a subject of an academic genre, is usually approached from either a practical perspective, analysing the practice of treaty interpretation to deduce theoretic and systemic conclusions on the topic, or a theoretical perspective, using practical examples as illustrations for the points made” (Van Damme 2012). The aim of this work is to illustrate which international humanitarian and human rights law for children's protection evolved over time, and how IHL functions in practice by interpreting two case studies. As a method for accomplishing this intention was chosen an instrumental case study. Moreover, cases are going to serve as instruments for interpreting the recruitment and abuse of children in armed conflicts as well as the implementation of IHL.

The precise definition of a case study is not easy to find, notwithstanding some common features can be defined as follows: “[c]ase study provides an intensive, holistic description and analysis of a single, bounded unit situated in a specific con-text to provide insight into real-life situations” (Ponelis 2015, p. 535). Specifically, in the thesis will be used an instrumental case study which should provide a general understanding of a phenomenon by using a particular case. Chosen case could be a typical case, however an unusual case could help to illustrate issues overlooked in a typical case (Harling 2002, p. 2). As a typical case in this thesis can be marked the case of the Lord's Resistance Army which is known for recruiting children for their activities, especially during the 90s. On the contrary, as an unusual case can be considered the case of the Islamic State which has started recruiting children as well, moreover ISIS child soldiers represent a recent phenomenon which challenges the international peace and security. The essence of an instrumental case study, compared to quantitative approaches, lies in the compromise between theoretical austerity on the one hand, and theoretical richness on the other hand. Parsimonious theories that work with a lower number of variables occasionally offer a deep explanation of specific cases.

Their main advantage is their usability for a large number of cases. Conversely, variable-rich theories lead to limited usability of cases. Affluent case studies search for the conditions under which a specific phenomenon occurs, and through which mechanism they occur. On the contrary, parsimonious theories are looking for frequency of those phenomena (George a Bennett 2004, p. 31).

The reason why the author is not working with a comparative case study, which was the author's first intention, is given by that a comparative case study puts emphasis on a parsimonious approach for defining independent variables (Karlás 2008, p. 67). In addition, the good comparability of cases depends, for instance, on geographic proximity of selected cases, which is not the situation of this work, even if some similarities can be found, the uniqueness of both cases preserved. Moreover, when the number of cases increases, their comparability decreases, and nowadays it exists several non-state armed groups that are recruiting children and using them for their purposes (Karlás 2008, p. 69).

## **2.2 Operationalization**

Operationalization is a crucial procedure from a methodological point of view whose quality determines the quality of the entire research, regardless of whether or not we explore the world quantitatively, causally, or interpretatively. Operationalization connects the abstract concepts which we use for understanding the world with the concrete observations (Drulák 2008, p. 25). The selected knowledge from chapters 3 and 4 will be used in case studies. After presenting the international legal framework for child protection in armed conflict, each case study will be examined with the most crucial parts of this framework, and cases are going to be evaluated in the final part of the thesis.

More precisely, in the analytical part of the work, two cases are going to be presented. The thesis is not composed as a comparative case study because it is not possible to observe different values that the dependent variables acquires. It needs to be acknowledged that the nature of both cases examined, evolved over time with its own way, and thus they would be hardly comparable. At each case will be examined 6 criterions. Firstly, the reason for the recruitment of children in both cases. Secondly, the training process of children, how they become child soldiers and which other roles they can obtain or play among the LRA and ISIS. The third criterion is going to be about abusing of children by both groups, particularly for demonstration what follows after their recruitment and training. In other words, for which

purposes they are used as child soldiers, when a specific attention will be paid to girls who have to complete different tasks. The fourth criterion is going to be about the legal protection of children in Uganda, Syria, and Iraq, because ISIS cannot be considered as a “state”, and so the legal responsibility in this case lies on territories of countries in which armed conflict takes place. The legal responsibility of ISIS will be more specified in a separate subchapter. The fifth criterion is going to be about the implementation of IHL, especially the demonstration how this law functions in practice, and whether it is applicable to both cases. And finally, the last criterion is going to be the disarmament, demobilization, and reintegration process of former child soldiers.

### **2.3 Data collection and shortcomings of the research**

In theoretical part of this thesis, the author is going to work with the international legal framework. Specifically, IHL and IHRL which were created in order to protect children’s rights. It is important to mention that those documents consist of a huge amount of information which the author will not need to use for this topic, and therefore it will be interpreted just those parts which are crucial for the thesis, and for the understanding of the issue of child soldiers. Besides international treaties and protocols, in the thesis will be used information from official web sites and documents from governmental as well as non-governmental organizations that are involved in protection of children’s rights. In addition, the existing literature suggests several structural explanations for using child soldiers in armed conflicts, including their political, social, ideological, or economic conditions. Even if there exist several explanations, three main factors have a tendency to appear the most frequently (Haer 2018, p. 75–76). Firstly, the proliferation of small weapons because some authors argue<sup>1</sup> that this factor facilitate the transformation of children into fighters. Secondly, the influence of globalization,<sup>2</sup> and thirdly, the exact number of child soldiers, because even

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<sup>1</sup> see, for example Singer, P. W. (2005). *Children at War* (New York: Pantheon), p. 280. ISBN 978-0520248762 or Machel, G. (1996). The Impact of Armed Conflict on Children. *United Nations* (<https://www.un.org/documents/ga/docs/51/plenary/a51-306.htm>, 17. 4. 2019), p. 94.

<sup>2</sup> see, for example Achvarina, V. – Reich, F. S. (2006). No Place to Hide. Refugees, Displaced Persons, and the Recruitment of Child Soldiers. *International Security* 31 (1), p. 127–164. Or Cohn, I. – Goodwin-Gill, G. S. (1994). *Child Soldiers: The Role of Children in Armed Conflict* (Oxford: Clarendon Press), p. 248. ISBN 978-0198259329

numbers from the UN are just anticipated.<sup>3</sup> In the thesis, the author will also work with academic articles and publications that can be, according to Roos Haer, divided into 4 main approaches: those who observe the influence of general and structural factors; those who are focused on advantages of using child soldiers; those who observe groups or states that are using child soldiers; and those who are interested in the impacts of recruitment and abuse of children in armed conflicts (Haer 2018, p. 75). For purposes of this thesis, the author will be working with the academic literature from all of these approaches, for presenting the overview of this issue.

Regarding the possible shortcomings of the thesis, it must be acknowledged that in theoretical part of this work are going to be illustrated the main documents, treaties, rules, and norms which were adopted by international community for promoting and protecting children's rights. The author assumes necessary to mention the most important of them, for better understanding of the issue of children's rights violation and child soldiers in general. However, not all of them will be applicable at selected cases in analytical part of this thesis, and thus it will be interpreted just those parts that are crucial and appropriate for the scope of this work. For this reason, it is possible that examining different areas of international law would give us different results.

### **3. The legal framework for child protection in armed conflicts**

#### **3.1 The Geneva Conventions and Additional Protocols I, II, III**

The first document, which focused on the involvement of children in armed conflicts, was the Geneva Conventions<sup>4</sup>, created in 1949. Their main goals were to improve conditions for individuals who were involved in armed conflicts, and put some rules into practice in order to protect civilians as well as soldiers. Under the Geneva Conventions, civilians were identified as individuals who were not actively involved into combat, and therefore they should have been protected. These principles were also applied to children. The Conventions

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<sup>3</sup> see, for example Peters, K. – Richards, P. eds. (2003). What happens to youth during and after wars?: A preliminary review of literature on Africa and an assessment of the debate. *RAWOO Working Paper*, p. 5–47.

<sup>4</sup> The Geneva Conventions entered into force on 21 October 1950 and in 2000, the total number of countries that ratified them increased to 194 states, and the Geneva Conventions have become universally applicable (ICRC 2010).

have become an important part of the international legal framework, more precisely international humanitarian law (ICRC undated a).

*The First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* (American Red Cross 2011, p. 2). This Convention presents the fourth updated version of *the Geneva Convention on the wounded and sick* succeeding those that were adopted in 1864, 1906, and 1929. It contains of 64 articles and provides protection to the wounded and sick, medical and religious workers, medical units, or medical transports (ICRC 2010). *The Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea* (American Red Cross 2011, p. 2). This Convention substituted *Hague Convention* of 1908 for the *Adaptation to Maritime Warfare of the Principles of the Geneva Convention*. It is in compliance with the First Geneva Convention and with its content and construction. It contains of 63 articles focused on war at sea (ICRC 2010). *The Third Geneva Convention relative to the Treatment of Prisoners of War* (American Red Cross 2011, p. 3). The Third Convention replaced the *Prisoners of War Convention*, 1929. It contains of 143 articles, and the categories of persons eligible to prisoners of war statute were extended in compliance with the First and Second Conventions (ICRC 2010). *The Fourth Convention relative to the Protection of Civilian Persons in Time of War* (American Red Cross 2011, p. 4). This Convention was formulated because previous Conventions, adopted before 1949, were focused only on combatants and not civilians, nevertheless atrocities from World War II showed the consequences of the absence of a convention which would protect civil rights in war. The Convention was adopted in 1949, and it contains of 159 articles, and among others, it explains the obligations of the occupying powers and vice versa, the civilian population together with provisions on humanitarian aid (ICRC 2010).

In 1977, two Additional Protocols were adopted in order to amend the Geneva Conventions. Both Protocols were focused on child protection and their recruitment. These Protocols are: *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts* (Protocol I) and *Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts* (Protocol II) (Český červený kříž undated, p. 146). In 2005 was adopted third Additional Protocol creating an additional emblem, the Red Crystal, and has the same international status as the Red Cross and Red Crescent emblems:

*Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III)* (ICRC 2010). Protocol I points out that children below the age of 15 should not be directly involved into conflicts, and states should not recruit them into their armies. If there is a situation requiring to involve juvenile, their age must be taken into consideration (Český červený kříž undated, p. 146). However, the main problem of this document is that individuals under the age of 15 could voluntarily become part of armed forces, as there was no mention about the issue of volunteering, and for this reason it was highly criticized (ICRC 1987, p. 937–938). Subsequently, the following Protocol II declared that children below the age of 15 must not be recruited by state armies or armed forces, and they cannot be involved in any form of combat (ICRC undated b). For the second half of the 20<sup>th</sup> century is typical that there were not many documents which would regulate intrastate conflicts, mainly because many wars still had an interstate character. Consequently, the corner stone for solving national conflicts was laid down by Common Article 3 of the Geneva Conventions and Additional Protocol II. The Common Article 3 enabled the application of the Geneva Conventions to conflicts of non-international character. In addition, from the title of Additional Protocol II is evident that it is oriented on other than international conflicts (Ondřej et eds. 2010, p. 344). The important is that articles of Additional Protocols I and II are considered as rules of customary international law, and thus these rules are legally binding for each state, even for those which have not ratified them yet (Sommaruga 1997).

To sum up briefly, the Geneva Conventions and their Additional Protocols are not completely able to protect children from the involvement in armed conflicts, especially during intrastate conflicts. On the one hand, currently, there is no international conflict in which children would be involved, and thus Additional Protocol I is applied in practice. On the other hand, Common Article 3 of the four Geneva Conventions mentions no restrictions on the recruitment or involvement of children in armed conflicts (Český červený kříž undated, p. 1–2). For better understanding, Common Article 3 of the Geneva Conventions states that: “[I]t requires humane treatment for all persons in enemy hands, without any adverse distinction. It specifically prohibits murder, mutilation, torture, cruel, humiliating and degrading treatment, the taking of hostages and unfair trial.

*It requires that the wounded, sick and shipwrecked be collected and cared for;*



*It grants the ICRC the right to offer its services to the parties to the conflict;*

*It calls on the parties to the conflict to bring all or parts of the Geneva Conventions into force through so-called special agreements;*

*It recognizes that the application of these rules does not affect the legal status of the parties to the conflict;*

*Given that most armed conflicts today are non-international, applying Common Article 3 is of the utmost importance. Its full respect is required” (ICRC 2010).*

In addition, the problem appears in connection with Additional Protocol II as well, because it would be rarely signed by the state which faces a civil conflict, moreover it mentions that children can be recruited since the age of 15, as how it is stated in Article 4(3) of this Protocol (ICRC undated b).

Additional Protocol II - Article 4(3) “[C]hildren shall be provided with the care and aid they require, and in particular:

*(a) They shall receive an education, including religious and moral education, in keeping with the wishes of their parents or, in the absence of parents, of those responsible for their care;*

*(b) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated;*

*(c) Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;*

*(d) The special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of sub-paragraph (c) and are captured;*

*(e) Measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety*

*and well-being*” (Protocol (II) Additional to the Geneva Conventions 1977: Article 4(3), p. 612).

To conclude, the consensus about the age for the recruitment of children has not been reached yet, nevertheless what might be assumed important, and probably the most beneficial, is the creation of the *Rule No. 136* that is a norm of customary international law, for both, international and non-international armed conflicts, which mentions that “[c]hildren must not be recruited into armed forces or armed groups” (ICRC undated c). This rule was supported by the International Committee of the Red Cross (ICRC) which led to the creation of specific provisions which are applicable to children, and are part of the international customary humanitarian law. Besides Rule No. 136, exist rules Nos. 135 and 137. *Rule No. 135* relates to the protection of children who are affected by armed conflict, and *Rule No. 137* is complementary to Rule No. 136, and mentions the prohibition of children’s participation in hostilities (UNICEF 2009, p. 61–62).

### **3.2 Protecting the rights of refugees and those internally displaced**

Armed conflicts go hand in hand with mass population movements, and thus many children, who are either refugees or internally displaced, have to face another threats like separation from their families, children trafficking, kidnapping by military groups, lack of food and other services, and in worst cases the exploitation and abuse. For this reason, it was created a legal framework which should protect children in such situations. It includes the *Convention Relating to the Status of Refugees*, 1951 and its Protocol, 1967 that contains, among others, the regional refugee tools (UNICEF 2009, p. 62). When the Convention was adopted, it was mainly focused on European refugees in the aftermath of WWII, nevertheless later the Protocol spread its tools globally. These documents define conditions under which adults or children can obtain a refugee status, or what kind of protection refugee can have, including legal protection, social rights, or other forms of assistance (UNHCR 2011, p. 1). The most important rights, related to child protection in the *Convention Relating to the Status of Refugees*, can be summarized as follows: “[t]he right not to be expelled, except under certain, strictly defined conditions (Article 32); the right not to be punished for illegal entry into the territory of a contracting State (Article 31); the right to housing (Article 21); the right to education (Article 22); the right to public relief and assistance (Article 23); the right to freedom of movement within the territory (Article 26); and the right to be issued identity and travel documents (Articles 27 and 28)” (UNHCR 2011, p. 4).

### 3.3 The Mine Ban Treaty

In the study by Graça Machel from 1996, who is children's and women's rights advocate, is written, that one of the most dangerous threat for children are landmines, explosive remnants of war, or illicit proliferation of light and small weapons. She tried to point out to this problem, and she called for a protection of children who were affected by this issue, moreover she appealed to states for adopting measures that would stop the development, production, use, trade, or transfer of anti-personnel mines, and thus mitigate their negative impact on children's lives (UNHCR 2011, p. 62).

In 1996, Canada launched a process called "Ottawa process", which later led to the creation of the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* (UNHCR 2011, p. 63). The Convention is known under the name *The Mine Ban Treaty*, and it entered into force in 1999. The greatest achievement of this Convention was its ratification by 156 states, moreover 34 non-state groups also made a commitment by signing the *Geneva Deed of Commitment* that ban anti-personnel mines (UNHCR 2011, p. 63). The remaining states, which are not parties of this treaty, have their own provisions, and some of them continue stockpiling anti-personnel mines despite the existence of the ban. For this reason, in 2003 was adopted the additional *Protocol on Explosive Remnants of War (Protocol V to the 1980 International Convention on Certain Conventional Weapons, CCW)*. It is estimated that between years 2005 and 2006, non-state armed groups used anti-personnel mines or similar types of explosives in 13 countries. The Protocol, which came into force in 2006, requires from parties of the conflict to clear explosive remnants of war, provide warning to non-combatants, share information, provide assistance to those who survived the conflict, and thus prevent the post-conflict deaths and injuries (ICRC undated d).

Another serious problem, which jeopardizes children and their lives, is the existence of cluster munitions in conflict or post-conflict zones. Cluster munitions can harm innocent civilians, they do not make differences between combatants and non-combatants, moreover such remnants may cause troubles even decades after the end of a conflict, and thus cluster munitions are unacceptable. As a response to this issue, the global initiative composed of 46 states, led by Norway in 2008, adopted an international treaty that ban cluster munitions. The treaty came into force in 2010, and 120 states have committed to the goals of the *Convention on Cluster Munitions (CCM)*. By ratifying the CCM, states commit to never use,

stockpile, transfer, or produce cluster munitions, they commit to destroy existing stockpiles during 8 years, provide assistance to victims, or provide material or financial support to other signatory states (CCM undated).

### **3.4 The Declaration of the Rights of the Child and the Convention on the Rights of the Child**

Ten years after the creation of the Geneva Conventions, the *Declaration of the Rights of the Child* was adopted, 1959. In this declaration was settled that every child, regardless of race, skin colour, language, gender, social background, religion, and political belief, has the same rights as other individuals. In total, it consist of 10 principles that were designed to ensure that children will have a satisfying childhood, and at the same time, it demands that the society should respect and follow these rules (UNICEF undated b, p. 1–2). The Declaration of the Rights of the Child was later followed by the *Convention on the Rights of the Child*. This Convention was adopted by the UN General Assembly, 1989. The Convention mainly focuses on civil, political, economic, cultural, and social rights of children. All children in the world have equal access to these rights. The Convention consists of 3 parts with 54 articles (OHCHR undated a). The Convention on the Rights of the Child is a relatively comprehensive document, and its main rights can be summarized as follows: the fundamental right to life, the right to a name and a nationality, the right to protect children from physical and/or mental violence, sexual abuse, exploitation, kidnapping, the right to the health care, the right to education, the right to an adequate standard of living. In addition, Article 38 of the CRC mentions, that children who have not reached the age of 15 years old cannot take a direct part in hostilities. Those who have reached the age of 15, but not the age of 18 years old, can be recruited, only if states decide about it, however states should take the age of these individuals into consideration, and always choose the eldest (OHCHR undated a).

### **3.5 The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

*The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict* (OPAC) seems to be one of the most important document that helps to mitigate the negative impact of conflicts on children. The Protocol was adopted by the United Nations General Assembly, 2000, and it consists of 13 articles (OHCHR undated

b). The importance of the Protocol relates to commitments of states, which devoted, that individuals under the age of 18, even those who are also part of their armed forces, are prohibited from direct participation in combat. This was followed by resolution, that children under the age of 18 cannot be send to war by state armed forces. It increased the age for compulsory recruitment from 15 to 18 years old. In the Protocol, besides armed forces, are also mentioned armed groups that cannot recruit children under the age of 18 for their military operations (OHCHR undated b). In other words, one of the biggest contribution of this Protocol was increasing the age for compulsory recruitment, nevertheless the voluntary recruitment was still set at the age of 16 years old, as long as the children are not participating in hostilities. The Optional Protocol makes two important differences in recruiting children by states and by armed groups, and it also modifies the situation of compulsory and voluntary recruitment. These differences can be distinguished as follows:

#### Recruitment by Armed Forces

##### Article 2

*“States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces”* (OHCHR undated b, Article 2).

##### Article 3

1. *“States Parties shall raise in years the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under 18 are entitled to special protection”* (OHCHR undated b, Article 3(1)).

2. *“Each State Party shall deposit a binding declaration upon ratification of or accession to this Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards that it has adopted to ensure that such recruitment is not forced or coerced”* (OHCHR undated b, Article 3(2)).

3. *“States Parties that permit voluntary recruitment into their national armed forces under the age of 18 shall maintain safeguards to ensure, as a minimum, that:*

- (a) *Such recruitment is genuinely voluntary;*
- (b) *Such recruitment is done with the informed consent of the person's parents or legal guardians;*
- (c) *Such persons are fully informed of the duties involved in such military service;*
- (d) *Such persons provide reliable proof of age prior to acceptance into national military service” (OHCHR undated b, Article 3(3)).*

OPAC raised the minimum age for voluntary recruitment up to 16 years old by armed forces. By voluntary recruitment can be considered a situation in which a child is not forced, by any means, for joining an armed group. In practice, the differences between voluntary and compulsory recruitment might be difficult to implement, because volunteers might be coerced by other factors, such as the lack of food, scarcity, vengeance, or another difficult life situation, and thus joining an armed group could be their only possibility (UNICEF 2003, p. 16).

#### Recruitment by Non-state Armed Groups

##### Article 4

1. *“Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years” (OHCHR undated b, Article 4(1)).*
2. *“States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices” (OHCHR undated b, Article 4(2)).*
3. *“The application of the present article under this Protocol shall not affect the legal status of any party to an armed conflict” (OHCHR undated b, Article 4(3)).*

The distinction lies in Article 4 which prohibits non-state armed groups from recruiting children under the age of 18 in hostilities by both means, forcibly as well as voluntarily. This clause has become one of the most important, because many conflicts today have an internal character, and the majority of children are recruited by non-state armed groups. Moreover,

it is important to mention that Article 4(1) contains a word “should not” instead of “must not” which reflects the opinion of international community regarding to a legal status of armed groups. According to the traditional view, only states can act under IHRL, and can become parties to treaties. It means, that non-state armed groups should be considered as entities which should be controlled by domestic law. In addition, Article 4(2) refers to duty of states to regulate acts of non-state armed groups, including forbidding and outlawing the recruitment and use of children under the age of 18. Regulations of these activities might require a domestic legislation (UNICEF 2003, p. 17).

### **3.6 ILO Conventions Nos. 138 and 182**

The *Convention No. 182* entered into force at the same time as OPAC, exactly on 19 November, 2000, and is focused on the worst forms of child labour. The main protagonists of the Convention were members of ILO, and their main aim was to eliminate the number of children, between the ages of 5 and 14, who were forced into work for any reason. The content of the Convention consists of 5 worst forms of child labour, and can be summarized as follows: slavery including trade with children and similar practices, obligation or forcing into work, especially the involvement of children into armed conflicts, their recruitment, abuse for prostitution, illicit activities, and also work which would jeopardize children’s health, security, or morality (Humanium undated). Moreover, in 1992 ILO created *The International Programme on the Elimination of Child Labour (IPEC)* which is focused on the elimination of these worst forms of work as well as the appellation on states to follow and support these norms (Humanium undated).

Another mean for children’s protection, from child labour, was the adoption of *Convention No. 138* on the minimum age for admission to employment and work, 1973. This convention ensures that children would not be working as long as they reached the legal working age. The minimum age was divided into 3 categories, according to the form of labour. First category includes *Light work* and children, between 13 and 15 years old, may do light work, until this work does not infringe their health, safety, or schooling. The second category is *Basic Minimum Age* where the minimum age was set at 15 years old, and it should not be less than the age for finishing the compulsory attendance at school. The last category is *Hazardous Work* which should not be done under the age of 18 years old, or in particular cases it could be since the age of 16, however strict terms are required. Both Conventions Nos. 138 and 182 are fundamental Conventions, which means, that even member states

which have not ratified them yet, should endorse, realize, and comply with these principles under the ILO declaration (ILO undated b).

### **3.7 The African Charter on the Rights and Welfare of the Child and the Cape Town Principles**

*The African Charter on the Rights and Welfare of the Child* was adopted by the African Union in 1990, however it came into force in 1999. The main purpose of this Charter is to define universal principles and norms for ensuring the status of children. Another reason, for Charter's creation, was that for African countries the Convention on the Rights of the Child was too universal, and thus it did not include issues related to African continent. Members of the African Union Organization decided to create a document that would complete the existing Convention, and would be more concerned about problems relating to African countries, like negative practices and approaches to life of girls, the problem of displaced persons as a result of a conflict, the African concept of community responsibility and their obligations, or different socioeconomic status of the continent (WTO undated, p. 1).

African children are in many cases exposed to economic and sexual exploitation, gender discrimination and inequality in access to education, and numerous of other factors. The Charter seeks to ensure that every child has its fundamental rights (the right to life, education, freedom, health care etc.), and at the same time, is protected from these negative factors that were mentioned above. The Charter also includes the definition of a child, and perceives as a child a person who has not reached the age of 18 years old yet. The Charter also stipulates that every children must be registered after birth, which is not a common practice in Africa (African Union 2017, p. 3). Moreover, at a certain point, the Charter can be compared to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts because it sets the same age for the recruitment, moreover it has led to the creation of African Committee of experts on the Rights and Welfare of the Child. This committee has the task of collecting information and assessing the situation of children's rights and well-being, and simultaneously, it can present their recommendations to the governments (African Union 2017, p. 17).

Later, in 1997 in Cape Town, a symposium took place which hosted a number of experts who were invited on the basis of cooperation between UNICEF and NGO working groups. Experts mainly dealt with a problem how to eliminate the growing number of



children involved in armed conflicts. The outcomes of their negotiations were documents called the *Cape Town principles and Best Practices on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa*. These documents include strategies about how to prevent the recruitment of children under the age of 18, demobilization of child soldiers, and their reintegration into society (UNICEF 2004, p. 1).

### **3.8 The Paris Commitments and Principles**

*The Paris Commitments and Principles* were adopted in 2007, and include principles about children who are associated with armed forces and groups. The Paris Commitments were formally authorized by 58 states in France. These commitments are about the protection of children from illegal recruitment and abuse by armies or non-state armed groups. They drew on the Cape Town Principles and Best Practice on the Prevention of Recruitment of Children into the Armed Forces and on Demobilization and Social Reintegration of Child Soldiers in Africa which had been one of the main control principles dealing with the problem of child soldiers, since their admission in 1997, as was mentioned above (Child Soldiers International 2016a).

The main aim of these documents is to preclude from the unlawful child recruitment, and their particular goals are to anticipate the occurrence of this issue, ensure the release of children who were involved, support the process of reintegration, and provide them the necessary protection. The Paris Principles give states comprehensive guidelines in order to achieve these Commitments, and they are more complementary to them (Child Soldiers International 2016a). States, which adopted these principles, commit themselves to prevent the recruitment of children because they are responsible for children, moreover Principles have still put the emphasis on the ban of the recruitment of children under the age of 18. The Paris Principles are considered as one of the most innovative documents due to its complexity. They also mention the importance of special treatment for girls who become victims, because they are often not recruited for military purposes, and thus there is a tendency to marginalize them in reintegration. Principles also support the importance of the existence of the Rome Statute of the International Criminal Court (Coalition to Stop the Use of Child Soldiers 2008, p. 28).

### 3.9 Rome Statute of the International Criminal Court

The ideas for the creation of the *International Criminal Court* that would prosecute culprits for war crimes already appeared in connection with the WWII. Nonetheless, it was not established by then, and individuals were judged by courts that were created ad hoc, namely by the Nuremberg and Tokyo Trials. Later in the 90s, in connection with civil wars in Rwanda and former Yugoslavia, the requirement for the establishment of a permanent institution appeared again. As a result were created the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda (Dempsey 1998, p. 3 – 12).

The change arose from the initiative by the UN, when the *Statute of Rome* was adopted on 17 July 1998, and became the founding treaty of the International Criminal Court (ICC). However, the Statute entered into force on 1 July 2002, because it was finally gathered 120 votes which were needed for its creation. The main purpose of the ICC is to exercise the most serious crimes of international concerns committed by persons. The seat of the Court was established in the Netherlands in Hague, and shall have the jurisdiction in accordance with its Statute that includes the following crimes: the crime of genocide, crimes against humanity, war crimes, and the crime of aggression. The Court exercises jurisdiction over the crime of aggression in accordance with articles Nos. 121 and 123, which defines the crime as well as set conditions, under which the Court makes decisions in compliance with this definition. In addition, this provision must be corresponding with relevant provisions of the Charter of the United Nations (Rome Statute of the ICC 2002, p. 1–3).

The most important article, referring to children, is Article 8 that stipulates acts related to war crimes, Article 8 contains: “[c]onscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities” (Rome Statute of the ICC 2002, p. 3, Article 8 para 2b (XXVI.)) is considered as a crime. Besides this, in war crimes are included other acts, such as rape, sexual slavery, forced pregnancy, torture, inhuman treatment etc. (Rome Statute of the ICC 2002, p. 5–8). In addition, children were very often considered as culprits than victims of crimes, which could be seen, for example, in countries like Myanmar, Burundi, or Uganda where children, after the demobilization, were tortured, beaten, and if they escaped from the army, they were labelled as deserters, and then imprisoned (Coalition to Stop the Use of Child Soldiers 2008, p. 16). This was changed by the creation of the ICC, because thanks to its establishment, any

international court or trial cannot judge children who were involved in armed conflict. Child soldiers, who committed serious crimes during the conflict, should be judged in accordance with standards and norms on juvenile justice. These proceedings should be held at national level and those children, who did not commit any crime, should be returned to local communities without proceedings. After their reintegration it is recommended to provide a necessary controls in order to protect them, because not every community accept former child soldiers successfully (The Paris Principles 2007, p. 24–25).

### **3.10 International standards and national action**

Despite the existence of several international legal standards and norms, their implementation in practice has still remained problematic. The most challenging seems to be their providing at national level. States usually incorporate these laws pursuant on a provision in the national constitution, or by incorporating provisions of international treaties into their national legislations. Nevertheless, it is important to mention that, this is not a sufficient way how to protect children and their rights, or how to prevent their violation. Adopting legislation is not enough for stopping the recruitment and abuse of children. Certainly, it is the first step, however there must be adopted another mechanisms that would provide these laws in practice, such as the establishment of relevant institutions and bodies, including appropriate training or instruments (UNHCR 2011, p. 63–64).

States and their governments are those that are responsible for the protection of children's rights, and they should ensure the consistency between this international framework and national action. First step forward would be the implementation of IHL, mentioned above, into national legislation hand in hand with spreading the awareness of these norms, and presenting them to civilians for better understanding, for example, through training programmes (UNHCR 2011, p. 64).

Many states have already adopted steps towards these standards, and they are trying to cooperate with another international initiatives, such as governmental or non-governmental organizations. For this reason, the next chapter is focused on work of this specialized organizations that help with implementing and providing of international norms and standards in practice, and which, by their work, can influence third countries or non-state actors for better compliance with the international legal framework.

## **4. The role of international governmental and non-governmental organizations**

This chapter is going to focus on how international organizations contribute to the protection of children's rights, more precisely, which organizations are the biggest proponents of their rights in armed conflicts. Firstly, it will be introduced international governmental organizations for which the author chose the United Nations altogether with the UN Special Representative of the Secretary-General on violence against children, the United Nations Children's Fund (UNICEF), and the International Labour Organization (ILO). Then follow international non-governmental organizations, such as Invisible Children, Watchlist on Children and Armed Conflict, and Child Soldiers International. These organizations were selected because they can be considered as the most active and visible participants in promoting children's rights, and they are helping to prevent their violation.

### **4.1 The United Nations**

The United Nations was established in San Francisco in 1945, when representatives of 50 states met at the United Nations Conference on International Organization, and drew up the United Nations Charter. The main goal of this organization is to ensure an international peace and security in accordance with its Charter. Moreover, the UN can take an action in areas such as climate change, sustainable development, human rights, terrorism, disarmament, governance, humanitarian aid etc. (United Nations undated a). For this reason, the organization is focused on children's rights as well, because their recruitment and abuse have an impact on international peace and security worldwide.

The very first impulse for protection of children in armed conflicts was mentioned by the UN Security Council which adopted several resolutions in order to improve their situation.<sup>5</sup> As one of the most significant can be considered the Security Council Resolution No.1379 (2001) which makes an appeal to the UN Secretary-General to list entities which recruited children in armed conflicts in the annual report. Preventing violations against children thus became one of the UN priorities more than 20 years ago. Since then, thousands

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<sup>5</sup> These resolutions are 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011) and 2225 (2015) on children and armed conflict, and can be found on the UN Security Council website (Child Soldiers International 2016a).

of children have been marked as child soldiers, and in 2003 was adopted another the Security Council Resolution No.1460, which led to the creation of *Action Plans*, that contain of all necessary tools for ending the recruitment and abuse of children in armed conflicts. The concept of Action Plans is now used also for other forms of violence against children (Child Soldiers International 2016a). However, many children around the world are still not protected, and many of them are separate from their families and displaced by war zones. The Secretary-General encourages states to respect the rights of children who are refugees or displaced, and ask them to provide a necessary help (United Nations undated b). As was mentioned in the previous chapter, the international community adopted several conventions which supposed to protect children's rights, regardless to their culture, class, or education.

In 2005, the Security Council adopted unanimously another Resolution No.1612 which introduced the monitoring and reporting mechanism (MRM) about children who are recruited and used in armed conflicts. The main goal of this mechanism is collecting data about reliable, objective, and accurate information of this issue. The Council also created a Council working group to which the mechanism will report (UN Security Council 2005). The MRM should follow principles that are mentioned in the Convention on the Rights of the Child, and seeks to monitor the following six grave violations which became crucial for reporting to the Security Council:

- 1) “[K]illing or maiming of children;
- 2) *Recruiting or use of children in armed forces and groups;*
- 3) *Attacks against schools or hospitals;*
- 4) *Rape or other grave sexual violence against children;*
- 5) *Abduction of children; and*
- 6) *Denial of humanitarian access for children”* (MRM Tools undated).

The UN has provided several recommendations about how to stop the emotional or physical violence against children, which helped to improve the situation around the world, because many states adopted legislation to prohibit physical, mental, or sexual violence of children, it has also appeared many campaigns that helped to spread the awareness of this issue, which caused, that several cases has been undertaken, or within the 2030 Agenda was set the world's commitment to end all forms of violence against children (United Nations undated b). Despite this progress, the intensity of current conflicts is not decreasing, and we

can witness that in many war zones (i.e. Syria, Yemen, Iraq, and South Sudan) is no respect for human rights and dignity. Children are very often directly involved in armed conflicts, and therefore the most effective way how to protect them, is to resolve these conflicts as soon as possible, or try to prevent their escalation. The Security Council contributes to improve the situation by adopting resolutions mentioned above, especially because these resolutions are legally binding. In addition, the Security Council does not make differences between children who are involved in armed conflicts by both means, armed forces and non-state armed groups, and they are demanding the same rights for all of them, without differences. The author appreciates the creation of the MRM which can be considered as one of the most effective tool that can guide the broader work of the Security Council. Thanks to this mechanism are collected the most important and reliable data about the impact of conflicts on children which could lead to better protection of children, who are affected by these conflicts, and to their sooner recovery (Children and Armed Conflict 2017).

Another considerable progress, in order to protect children and their rights, was the UN Secretary General's report on small arms and light weapons, presented in 2008 to the Security Council. This report illustrated that using and proliferating of small arms lead to grave violations of human rights, including killing, maiming, abusing, torturing, recruiting, and using of children in armed conflicts as well. It is estimated that with small arms and light weapons is committed more crimes than with any other forms of weapons, because these types of weapons can be easily used and carried by children who, very often and very easily, become their victims. For this reason, it has been recommended that states where children take part in hostilities, should adopt legislation and essential measures to prohibit the trade or use of small arms and light weapons. Additionally, if states adopt and follow these practices, and implement them into their domestic law, it can lead to reduction of number of children who are somehow involved in armed conflicts (UNIDIR 2008, p. 39–41).

#### **4.2 The Special Representative of the Secretary-General for Children and Armed Conflict (SRSG/CAAC)**

The SRSG/CAAC was established by the UN General Assembly of Resolution No. 51/77 in 1996. Its main task is to serve as an independent supporter of children's rights, especially to protect those who are involved in armed conflict, and thus ensure their well-being (Child Soldiers International 2016a). The first impulse for the creation of this office was the report,

written by Graça Machel, named the *Impact of Armed Conflict on Children*, as it is mentioned in chapter 3. This report highlighted the issue of the negative impact of war on children's lives, because in many armed conflicts, children are those who become the major victims. The SRSG contributes to the protection of children who are affected by wars, tries to spread the awareness of this issue, or enhance the international cooperation in order to improve their situation. The Special Representative also reports yearly to the General Assembly and the Human Rights Council, and thus points out to this topic as well as to the most important political bodies, like the UN Security Council, relevant governments, or key decision makers which can make decisions and take an action (Permanent Missions to the United Nations undated).

However, one of the most effective tool, for increasing the awareness of this topic, remains the creation of an international campaign. This was followed by the UN Secretary-General, Ban Ki-moon, who on 25 May 2010 launched the Global Campaign for the universal ratification and implementation of the Optional Protocol to the CRC<sup>6</sup> as well as the universal ratification of the *Optional Protocol on the sale of children, child prostitution and child pornography* (OPSC). Moreover, this Campaign was accompanied and supported by another campaign, called *Zero under 18*, which was led by the SRSG (SRSG Children and Armed Conflict undated a). The campaign ended in 2012, and it managed to achieve 21 new ratifications of the Optional Protocol. At present, 168 countries ratified the Optional Protocol, nevertheless there are still 17 countries which have either signed or ratified the protocol (i.e. United Arab Emirates, Mauritania, Barbados etc.), and 12 countries which have signed it but have not ratified it yet (i.e. Haiti, Iran, Lebanon, Liberia, Somalia etc.) (SRSG Children and Armed Conflict undated a).

Interesting fact is that since February 12, 2002, when the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict entered into force, was set the international Day against the Use of Child. According to the SRSG, it is important to remember that the most vulnerable part of conflicts have remained children, who usually become victims, moreover they are very often forced into committing

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<sup>6</sup> The OPAC was adopted by the United Nations General Assembly in 2000, and it declares that the recruitment of children under the age of 18 into armed group or armed forces should not be a common practice, as was mentioned in chapter 3 (OHCHR undated b).

violence and brutalities. The International Community has a common responsibility to protect these children, ensure a sufficient amount of resources, and help to those who are released to find their place in society by providing psychological support as well as education. For this reason, it is important to remind this day every year (SRSG Children and Armed Conflict 2016).

### **4.3 United Nations Children's Fund (UNICEF)**

The origins of UNICEF dates back to 1946 when it was created as the International Children's Emergency Fund (ICEF), and should help to any children, without discrimination, who were affected by World War II. During 1950s, the United Nations General Assembly extended UNICEF's mandate for helping and supporting other children outside of Europe, and in 1953, UNICEF became a permanent United Nations agency (UNICEF undated c). Nowadays, its main task is to save children's lives in more than 190 countries worldwide, including defending their rights, protecting them from social exclusion, helping them to fulfil their potential, expanding the access to services and especially to education, and thus supporting gender equality (UNICEF undated d).

In connection with the protection of children during armed conflict, UNICEF takes part as well, and tries to build a protective environment for children. Their main recommendations include the supportive role of governments which should protect non-combatants, mostly vulnerable children, they should commit themselves for stopping the recruitment and abuse of children as soldiers, and when the conflict is about to end, peacebuilding and peacekeeping activities should take place, and should focus on child protection as well as on disarmament, demobilization, and reintegration programmes (UNICEF 2006, p. 1).

Nevertheless, the most visible and effective tool how to spread the awareness of this issue, remains through media, which could create an open discussion over this problem. Subsequently, in 2014 was launched a campaign called *Children, Not Soldiers* thanks to the cooperation between the Special Representative of the Secretary-General for Children and Armed Conflict and UNICEF. The campaign should have supported the idea that using children as child soldiers should not be a common practice, and it was supported by UN members, NGOs, local organizations, and the general public as well (SRSG Children and Armed Conflict undated b). At that time, when the campaign was launched, the main



concerned countries were Afghanistan, Chad, the DRC, Myanmar, Somalia, South Sudan, Sudan, and Yemen. Governments of all these countries were involved in an Action Plan practice with the United Nations.<sup>7</sup> The campaign ended in 2016, however its impact was considerable. Thousands of child soldiers were released and reintegrated, mainly thanks to work of UNICEF altogether with peacekeeping missions, governmental activities, and other NGO participants (SMSG Children and Armed Conflict undated b).

#### **4.4 International Labour Organization (ILO)**

The International Labour Organization was created in 1919, as a part of the Treaty of Versailles which ended the World War I. By that time, was a general belief that universal and lasting peace can be achieved, only if it is based on social justice. The organization has played a significant role since its creation, and took part at key historical junctures, such as the Great Depression, process of decolonization, the victory over apartheid in South Africa etc. In 1946, ILO became a part of the UN specialized agencies, and this year celebrates 100<sup>th</sup> anniversary since its creation. For ten decades ILO have focused on building of an ethical and productive framework for a fair globalization (ILO 2019).

As was mentioned in chapter 3, ILO took part in creation of a legal framework for the protection of children from the worst forms of child labour since the Convention No. 182 was adopted, and entry into force in 2000. It mentions that the use of children in armed conflicts is considered as the worst form of child labour (ILO undated c). The main strategy of ILO is to prevent recruitment and abuse of children in armed conflicts, ensure their reintegration, and put emphasis on offering work options for children who have reached the legal working age. In order to fulfil these tasks, ILO also cooperates with other agencies and organizations that are involved in helping to release children and their ensuing reintegration. For this reason, in 1992 was created a programme for ending a child labour called *International Programme on the Elimination of Child Labour (IPEC)*. IPEC's work focuses on the elimination of child labour, and currently operates in more than 88 countries

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<sup>7</sup> For example, over 800 children, who were recruited as child soldiers in Myanmar, were released, and Myanmar became another signature country to the OPAC in 2015. Somalia ratified the Convention on the Rights of the Child in 2015, and governments of the DRC, Chad, or Afghanistan adopted all essential tools, necessary for stopping and precluding the recruitment of children (SMSG Children and Armed Conflict undated b).

worldwide. It is the largest operational programme of ILO, and has implemented many projects related to the reintegration of children who were affected by armed conflicts, mainly in areas like Central Africa (Burundi, Congo, DRC, and Rwanda), Colombia, Philippines, and Sri Lanka. The IPEC's main task is to support the economic potential of reintegration projects that are implemented by ILO, and other partner organizations as well. One of its greatest achievements was the creation of the programme, which trains specialists who are focusing on economic reintegration of children who participated in hostilities (ILO undated c).

The reason why ILO tries to protect children, who are involved in armed groups or armed forces, is because ILO workers argue, that it exists causality between armed conflict and child labour, and therefore the conflict has a negative impact on the socio-economic situation which can increase the hazardous factors related to child labour. Conflict also raises the possibility of even more harmful and unsafe involvement of children in some form of labour. Armed conflicts are thus one of the major challenges for ILO in order to help children, and remove the worst forms of child labour (ILO undated c).

#### **4.5 Invisible Children**

The first non-governmental organization, which the author decided to mention, is Invisible Children which was created in 2004. For this organization is typical, that it is not focused on child soldiers everywhere, but just on child soldiers from Uganda, who were recruited and abused by the Lord's Resistance Army<sup>8</sup>. The main aim of this organization was to stop the violence against children in Uganda, committed by Joseph Kony, and help local communities by implementation of several programmes. These programmes are very various, and they focus on communities living in Uganda, because the organization believes, that the international community should be aware of this issue and atrocities which happened, especially in northern Uganda (Invisible Children undated a). Their work mainly focuses on programmes, such as: rehabilitation projects, legacy scholarship, teacher exchanges, adult literacy, community resilience committees, access to safe drinking water and improve the sanitation and hygiene of community members, improve the quality of life

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<sup>8</sup> The case of the Lord's Resistance Army (LRA) in Uganda will be presented more detailed in empirical part of this work.

for women who were affected by the LRA conflict, trauma healing and reintegration support, early warning radio network or the crisis tracker (Invisible Children undated b).

All of these programmes were invented to help people who were directly affected by the conflict with the LRA, and as the most effective ones could be marked the creation of the early warning radio network or the crisis tracker. These two programmes facilitate to map the situation in Uganda as well as in the region of Central Africa in order to help to disrupt some patterns of violence. As the only weak side of these programmes can be considered that in the region of Central Africa, not all communities have the access to communication networks, which means, that they are not able to get the necessary information. On the contrary, Invisible Children helped to involve more than 85 communities in the early warning mechanism thanks to the existence of radio network (Invisible Children undated c).

As was mentioned above, the organization's main aim is to point out to this issue, and thus warn the international community. For achieving these goals, Invisible Children created a web platform<sup>9</sup>, where they provide all necessary information about the LRA, including videos, pictures, photos, and stories of individuals, who were connected with this conflict. Thanks to the creation of this platform, governmental as well as non-governmental organizations can collect released data and information, which are verified by specialist from Invisible Children, for helping those people to improve their situation. Until nowadays has been announced 347 total civilian abductions (Crisis Tracker undated).

Besides the web platform, the most visible success of this organization is connected with the creation of the campaign called *Kony 2012*. This campaign was created after 8 years of violent activities committed by the LRA. At the beginning, the campaign supposed to be just an experiment, and thus Invisible Children posted an online video about Joseph Kony and his brutalities against Ugandan people, especially against children. What followed next, was unexpected. In 6 days, the video had more than 100 million views, and it spread very quickly on social networks, and 3.7 million citizen pledges called for the immediate arrest of Kony. In addition, he was accused of kidnapping more than 60 000 children, and has been wanted by the ICC since 2005 on charges that includes crimes against humanity. On the contrary, the wave of criticism appeared, after the campaign was launched, because not all

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<sup>9</sup> see <https://crisistracker.org/>

information, mentioned in the video, were based on true events, and at some point, the video provided distorted information about the situation in Uganda. For example, critics said, that the LRA did not operate just in Uganda, but also in the Central African region, which includes countries like DRC, South Sudan, or Central African Republic, and thus the LRA is not just Joseph Kony, but also other individuals. Another issue was about the inaccuracy in numbers because it is estimated that the LRA was smaller, and that it did not consist of 60 000 kidnapped children just by Kony. The number supposed to be about 30 000 children abducted by the LRA after years of their actions (Curtis, McCarthy 2012).

The author personally evaluate this campaign as a step forward, because thanks to this initiative, the problem of Ugandan child soldiers spread around the world, moreover many famous people started to talk about this issue on social media, including the former US president Barack Obama, who on 24 April 2012 authorized again, the US missions in Africa, and promised the support to the African Union for stopping the violence committed by the LRA. In addition, the Invisible Children received more money for their activities, and thus they could implement a higher number of their programmes (Invisible Children undated d).

#### **4.6 Watchlist on Children and Armed Conflict**

Watchlist was founded in 2001, by a group of specialists focusing on human rights and by humanitarian organizations in order to help with monitoring and reporting on violations against children in wars. Its content is set by 7 international NGOs which altogether create an Advisory Board.<sup>10</sup> The main goal of this organization is to end all violations against children in armed conflicts and to protect their rights. They try to build a network for collecting and exchanging important data and information on child abuse, and thus support the partnership among local, national, and international NGOs (Watchlist undated a).

Unlike Invisible Children, Watchlist is focusing on less number of programs which consists of 3 main areas. The first one is its role as an advocate. Watchlist is an independent advocacy network, and works closely with the UN Secretariat, UN agencies or diplomatic missions. In all of these fields, the organization tries to advocate the importance of the

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<sup>10</sup> Watchlist members includes: Child Fund Alliance, Child Soldiers International, Geneva Call, Global Centre for the Responsibility to Protect, Human Rights Watch, Terre des Hommes International Federation, Child Soldiers Initiative, War Child International and World Vision International. The membership is not limited, and other organizations or initiatives can be involved as well (Watchlist undated a).

promotion and implementation of global child protection policies. Watchlist thus cooperate with the UN Security Council Working Group on Children and Armed Conflict, and dedicates its work to protect children and their rights (Watchlist undated b).

The second field of Watchlist interests includes partnership. Their partnership programmes support local civil society in conflicting areas, and contribute to monitoring and reporting on violations committed against children. Thanks to this partnership, Watchlist seeks to build a network of information by participating in the UN Monitoring and Reporting Mechanism (MRM), as was mentioned above. This mechanism is stronger when the civil society is involved, and for this reason it is important to support local communities in protecting children's rights, because they are present in areas, where the UN or other organizations do not necessarily have the access. Watchlist has developed practical guidance for civil societies on how to engage with MRM tools. Moreover, since 2005 the organization has supported projects in countries like Afghanistan, Chad, Colombia, DRC, Liberia, Myanmar, Nepal, or Nigeria (Watchlist undated c).

The third area is focused on reporting. Watchlist publishes reports that are mainly focused on attacks on hospitals and medical facilities altogether with their impact on children who are in these war zones. They believe, that if they provided enough information about these practices, it could lead to better protection and preparation for similar situations, because in many conflict-affected areas, hospitals and health care centres are very often targets. Armed groups usually bombed, occupied, or destroyed hundreds of health facilities, and these attacks have negative impacts on children's health. Watchlist hopes, that by publishing a series of reports called *Field Monitors*, that are thematically focused on hospitals and health care during armed conflict, could ameliorate the situation in the future (Watchlist undated d).

#### **4.7 Child Soldiers International**

The third and the last non-governmental organization, which the author would like to present, is Child Soldiers International. This organization is an international human rights organization which was founded in 1998, by a group of leading human rights organizations, such as Amnesty International, Save the Children, or Human Rights Watch. Their main purpose is to prevent the recruitment and abuse of children in armed conflicts and hostilities. The organization works with human rights framework which was presented in chapter 3,

because they believe, that using children in armed conflicts is considered as a grave violation of human rights, and therefore it is important to persuade governments and armed groups to end child recruitment, and help children with their reintegration (Child Soldiers International 2016b).

Child Soldiers International original purpose was to campaign for children rights, and as their main success can be considered when OPAC entered into force in 2002. The organization follows 6 core values in order to fulfil their goals. These core values include collaboration, integrity, independence, respect, accountability, and equality. Through the implementation of these values, the organization would like to create a world in which children would not be involved in wars which is the organization's strongest vision (Child Soldiers International 2016b).

The organization's activities lay down, especially in working with communities, who are affected by conflict, and in supporting the reintegration process of former child soldiers. Their strategy includes lobbying for adoption 18 years old as the minimum age for military recruitment, because it is the only way how to avoid using children in hostilities. Child Soldiers International thus collaborate with communities by helping them to protect their children, and by providing them necessary information which should be exchanged, not just between those communities, but also among governments and other international authorities (Child Soldiers International 2016c).

One of the biggest contribution of this organization is the creation of Child Soldiers World Index<sup>11</sup>, which is a world map, that visualises trends in a military exploitation of children divided into 3 categories. The first category shows, how many countries have already ratified the OPAC. Currently, the number consists of 168 countries. The second category is about the minimum age for the recruitment, and it is estimated that 46 states have still recruited children under the age of 18 into their armies. And the last category is about the use of children in hostilities. At present, in at least 18 conflict situations worldwide, are children used for military purposes (Child Soldiers International undated b).

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<sup>11</sup> see <https://childsoldiersworldindex.org/>

## **5. Case Study: the Lord's Resistance Army**

In empirical part of the work will be presented two case studies from practice. The first one is focused on the recruitment and abuse of children in Uganda by the Lord's Resistance Army (LRA) led by Joseph Kony. The second one is the Islamic State in Iraq and Syria (ISIS) which uses child soldiers as well, nevertheless under quite different conditions. In both cases will be analysed how these groups recruit and abuse children as soldiers, and the research will rely on information which were presented in theoretical part of this work. The main patterns which will be analysed are reasons for the recruitment, training process, abuse of children as soldiers for several types of activities, the legal protection, implementation of international humanitarian law, and their reintegration. In the last part of the work will be summarized all findings in conclusion.

### **5.1 Context**

The first mention about the Lord's Resistance Army dates back in the second half of 1980s, when Yoweri Museveni got into power due to the National Resistance Army (NRA). The government forces, which were active until the Museveni overtook the power, fled to the northern Uganda and southern Sudan, where they created the Ugandan Democratic People's Army (UPDA). The vast majority of the UPDA soldiers came from the northern Uganda region (e.g. Gulu, Kitgum and Pader districts). The UPDA had a significant influence on the creation of the Lord's Resistance Army (LRA). The LRA not that just only accepted the UPDA's former deserters, but also supported their activities (Humans Right Watch 2003a, p. 4). The NRA helped to the escalation of the conflict in the country, when they committed violations against human rights, including rape or kidnapping (Otunnu 2002). As a respond to this events was a formation of the LRA. The LRA was created in the late 1980s in northern Uganda, evolving out from the Holy Spirit Movement (HSM). The HSM was an organization that confronted the Museveni regime, and evolved itself on the basis of Christianity. The HSM led operations against the NRA, and most of their battles were successful. The organization fizzled out in 1986, when the LRA was formed (Faulkner 2016, p. 222). The LRA started to fight against the Ugandan government, which terrorised the tribe Acholi in the northern Uganda and cooperated with Sudanese rebel groups. The LRA, on the contrary, used this situation and started to cooperate with the Sudanese government (Human Rights Watch 2003a, p. 4).

The leader of the LRA became Joseph Kony who grew up in the northern Uganda in village named Odek. For this reason, the beginning of the LRA operations was accompanied by a small support from the Acholi population in northern Uganda. This was based on ethnic connections with the group and leaders members, because Kony was ethnically connected to the Acholi tribe (Faulkner 2016, p. 226). In 1987, Kony declared himself a prophet, and he wanted to rule the country according the biblical 10 commandments (Preston 2018). What this meant in practice was never clear, however he created an aura of mysticism around himself, and his followers had to keep strict rules and rituals. In October 2005, the ICC wanted to arrest Kony for crimes against humanity and war crimes, nevertheless he has never been captured, and thus efforts for tracking him down ended in 2017 (BBC 2018).

During the 90s, the LRA had become an immense problem for Uganda as well as for Sudan. Members of the LRA violated human rights of innocent civilians by resorting massacres, kidnappings, sexual abusing, or enslaving. Newly accepted members, especially children, were forced to burn their villages and kill their families. After some time, the LRA tried to focus on providing basic services to people. However, areas where the LRA was present, dealt with a catastrophic humanitarian crisis (AU Peace and Security 2015). The government of Uganda tried to achieve goals that arose from the obligations of the Convention on the Rights of the Child, Additional Protocols I and II, and the African Charter on the Rights and Welfare of the Child that was ratified by Uganda in the first half of 1990s (Human Rights Library undated). There was an urgent need to protect children, who were under the age of 18 from this violent conflict, and ensure their security. On the basis of Protocols, children should not have been recruited into armed forces under the age of 15, and thus Ugandan government focused on adopting legal standards hand in hand with a military operation.

Because the situation did not get better, the Ugandan government decided to adopt *Amnesty Act* in 2000. Its main aim was to provide peace and security in the country (ICRC undated c). At the same time, the country has acceded OPAC, and adopted the Convention on the Worst Forms of Child Labour. According to the Optional Protocol, children under the age of 18 cannot be recruited into armed groups in Uganda for the purpose of fighting. Thanks to this step, Ugandan government supposed to prevent the recruitment of children into armed groups, and supposed to take an effective legal measures for eliminating this issue. If this practice appeared, a child must be provided with a sufficient assistance,



demobilization, and reintegration by the state (Human Rights Library undated). The LRA reacted to Uganda's military operations by even bigger violence against civilians, and by increasing child abduction. By year 2002, 12 000 children were kidnapped, while in year 2004, the number of kidnapped children was about 30 000. The Ugandan government responded by the creation of camps, where the population could move. Based on data from UNHCR, until year 2005, in average, 1.1 million people lived in those camps, and 184 000 people are still there (UNHCR undated, p. 7).

It appeared several attempts to sign a peace deal between fighting groups since the beginning of the conflict, however negotiations between the Ugandan government and the LRA had always failed. As an example can be mentioned the situation when the LRA leader, Joseph Kony, built a camp in the Garamba National Park in northeaster Congo, and during negotiations, he gave an order to attack villages in this area as well as kidnapping children from the Democratic Republic of Congo (DRC). One of the possible explanation of these peace talks is, that for Kony it was just a pretext for taking some extra time, especially for taking a rest, and for regrouping the LRA. Moreover, during peace talks, the LRA was provided by food, clothing, and medical supplies (Invisible Children undated).

On the contrary, the area of northern Uganda stopped being endangered by the LRA attacks, and thus this area could focus on their economic recovery. More than a million people could come back to their homes, nevertheless disputes about land rights started to appear. Unfortunately, the recovery went very slowly which was probably caused by an ineffective government programmes. People did not have the access to basic services like education or health care. The inefficiency of these programmes was also caused by the corruption that the government had to face, and in the country were also restricted political rights or freedom of a press (The Resolve 2010).

The major step forward, for resolving the situation, appeared in 2012, when a non-profit institution, Invisible Children, launched a programme called *Kony 2012*. This campaign was successful even around the world, because this issue was finally medialized, which led to growing awareness about child soldiers in Uganda. The LRA leader, Joseph Kony, became a "*public figure*", and there was a necessity to stop him. Even the US president, Barack Obama, reacted on this issue, and authorized missions against the LRA, and provided assistance to the African Union. One of the major achievement was recorded

in 2015, when one of another leader of the LRA, Dominic Ongwen, was detained in the Central African Republic (The Guardian 2016). Even if the LRA withdrew from Uganda several years ago, the country has not recovered from these atrocities yet. The Ugandan government has tried to develop several projects for supporting the infrastructure, improving services, or reintegration of communities that had been affected by the conflict. The following Ugandan governments should focus on post-conflict reconstruction as well as on developing programmes in the country, for ensuring that the conflict would not re-escalate again (Okiror 2016).

## **5.2 Reasons for the recruitment**

For the Lord's Resistance Army was typical that, during their military activities, they were focusing on attacks against civilians. The LRA operations included attacking and burning villages, schools, kidnapping, or killing the innocent people. If someone survived the attack of the LRA, those individuals were usually captured. For the LRA was characteristic kidnapping young children, and it did not matter, whether they were girls or boys. Children who had not reached the age of 18, were detained or abducted, and if some of them tried to escape, disobeyed leaders, or were just ill, they were killed without hesitation. One of the most terrifying practice was the situation in which children were forcing into killing each other (Human Rights Watch 1997).

Since the second half of 1980s, when the operations of the LRA had started, it is estimated that around 20 000 children were abducted. The number of kidnapped children had raised after the year 2002, in connection with military actions against the LRA. In order to protect children, thousands of them had to escape from their villages and slept in hospitals or churches, especially in the city named Gulu. Reasons why children were kidnapped, instead of adults, are several. For example, they could be easily influenced, because they are psychologically more vulnerable than adults, they fulfil their tasks responsibly, and in case of girls, they were not infected by HIV (Human Rights Watch 2003a, p. 6–7).

In addition, children's personality and identity has been forming throughout years, and therefore it was easier to influence them for accomplishing more dangerous tasks, because they do not realize the consequences of their acts like adults do. Particularly in Africa can be observed, that children were usually kidnapped from their families, which led to tremendous deprivation, they could be easily controlled, and they might “[t]ransfer

*loyalty to another adult, especially one who holds the power of reward and punishment. They can be psychologically manipulated through a deliberate programme of starvation, thirst, fatigue, voodoo, indoctrination, beatings, the use of drugs and alcohol, and even sexual abuse to render them compliant to the new norms of child soldiering” (Dudenhoefer 2016).*

### **5.3 Training process**

Kidnapped children had to face the violence committed by the members of LRA. The most common practice included their training in refugee camps or in internationally displaced persons camps. Children were usually divided into groups which consisted about 50 individuals. During the training process, they learnt how to march in formation, shoot, clean, assemble and dismantle weapons (Human Rights Watch 2003b).

After this training process a lot of them became proper combatants as adult soldiers. It is estimated that children since the age of 10 were able to carry and use a small weapon, mainly AK-47 rifles, and thus they became as dangerous as adult militants. During the civil war, the LRA forced these children in direct participation of their military activities in which they were forced to commit violence, kill or maim, and multiple of other child soldiers or civilians were including in burning and destroying houses and villages (Dudenhoefer 2016).

Better experiences with these atrocities had children who were recruited before the year 2002, because they were fighting in Sudan against the Ugandan Armed Forces. In the following years, the military training of children were decreasing. Some individuals completed just short-term training, or they were not trained at all (Human Rights Watch 2003b).

### **5.4 Abuse of children**

Children in the LRA did not obtain just roles of soldiers, but they could fulfil several another tasks. Children who were not able to fight had a role of munition or food carriers, messengers who passed important information for other members of the group, spies who were sent to terrain for finding out some news about the enemy, and in the worst case scenario, children were used as life shields (Maslen undated).

The LRA recruited even girls, however their number was lower compared to the number of recruited boys. Some girls were also involved into training process and deployed in military operations against the Ugandan army. Others were forced to work for several hours and carry heavy loads. The main tasks for girls were to ensure the everyday running of the camp which included preparation of food, ensuring enough fire wood as well as going for a water. Once a girl had reached the age between 14-15 years old, she became a “wife” of one of the LRA commanders. In this period, girls were sexually enslaved and raped, which resulted in unwanted pregnancies, transmission of sexual diseases (including HIV/AIDS), and psychological traumas (Human Rights Watch 2003a, p. 13-14).

The common practice, how children were abused, was mainly by abduction from their own families. It exists several stories of children who were kidnapped by the LRA, like the story of Juliet, who was abducted from her home when she was 12 years old. She had been captivated for 6 years, and she had to marry the LRA commander. When she was 16 years old, she got pregnant with him, however her child died, and she had serious health issues. She persuaded the LRA leaders for taking her into the hospital in Nairobi, where thanks to other employees, she was able to escape and came back to Uganda. Juliet was reunited with her family, however, not all stories ended like this, and not all former child soldiers are able to live their lives properly, or go back to school after these dreadful experiences (The Guardian 2010). For this reason, the role and work of governmental and non-governmental organizations is very important, as was mentioned in chapter 4, because they can make stories of these children visible, especially through their campaigns in media, they can ensure the implementation of several programmes and projects, which help these children, especially by giving them the opportunity to get access to education, because this can help them to change their life, reduce a psychological trauma, and improve their situation in the future.

## **5.5 The legal protection of children in Uganda**

The Ugandan constitution from 1995 states that every citizen has a duty “[t]o defend Uganda and to render national service when necessary” (Uganda's Constitution 1995, Article 17(1)(e)) as well as „[t]he duty of all able-bodied citizens to undergo military training for the defence of this Constitution and the protection of the territorial integrity of Uganda whenever called upon to do so; and the State shall ensure that facilities are available for such training” (Uganda's Constitution 1995, Article 17(2)).

On the contrary, the Constitution also indicates that every Ugandan citizen has a duty “[t]o protect children and vulnerable persons against any form of abuse, harassment or ill-treatment” (Uganda's Constitution 1995, Article 17(1)(c)); that “[c]hildren are entitled to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development” (Uganda's Constitution 1995, Article 34(4)). Moreover, it mentions that “[c]hildren may not be separated from their families or the persons entitled to bring them up against the will of their families or of those persons, except in accordance with the law” (Uganda's Constitution 1995, Article 31 (5)).

The international treaties and documents which Uganda ratified are the Geneva Conventions in 1964, Additional Protocol (I) and Additional Protocol (II) to the Geneva Conventions in 1991, and the Convention on the Rights of the Child in 1990 (ICRC undated e). In 2002, Uganda's declaration on ratification of the Optional Protocol includes that there is no military service, and that the minimum age for the voluntary recruitment was legally set at 18 years old (OHCHR undated b). The Uganda People's Defence Forces (UPDF) Act from 2005 declares that the minimum age for the recruitment into armed forces was set at 18 years old as well (UPDF Act 2005, p. 35). In accordance with the Convention on the Rights of the Child, the criminal responsibility of children was set at the age of 12, nevertheless the law also mentions, when children are arrested, the police shall, under legitimate conditions, release them, and they should not be detained with adults, and should be put in a protective custody (Child Soldiers International 2008a). Even if Uganda's Constitution contains of several Articles for child protection, and even if it ratified the main international law documents, their functioning in practice was different. In the next section of this chapter will be demonstrated how conflict with the LRA relates to the implementation of international law.

## **5.6 Implementation of international humanitarian law**

The essence of the conflict with the LRA affects state to take action under IHL. For the purposes of this conflict, Common Article 3 of the Geneva Conventions provided a less significant and less evident series of protections, especially for the wounded and sick, prisoners of war, and civilians including children. The international community pointed out on this issue, and thus the Additional Protocol II was ratified by Uganda in 1991. This

Protocol was created for providing expanded obligations in intrastate armed conflicts, and for making IHL more comprehensive and global. The reason why the international law is connected with this conflict is, although the conflict started in northern Uganda, which involved some level of criminal activity such as agitation, internal disorders or uprising, that required solution under the Ugandan Penal Code<sup>12</sup>, the conflict had spread even to other territories in Central Africa, concretely to Sudan, Democratic Republic of Congo, and Central African Republic, which raised the urgency of implementation of IHL. In other words, the conflict from a law enforcement problem had evolved over time, into a conflict demanding the application of the international law (Bailey 2017, p. 261–262).

Uganda became a state party to the Geneva Conventions in 1964, and ratified its Additional Protocols I and II in 1991 (ICRC undated e). It means, that Common Article 3 could have feasible application to Uganda's domestic conflict with the LRA, if it was connected to some penalty in Ugandan national law (Bailey 2017, p. 263). Regarding to the Rome Statute, it has incomplete scope of application over the wide range of crimes committed in this conflict (Bailey 2017, p. 263). The main reason is that the Rome Statute entered into force in 2002, which makes it inapplicable for the first 15 years of the conflict. This means, that many crimes committed by the LRA, during these 15 years, cannot be associated with the competences of the ICC (Bailey 2017, p. 264). Uganda incorporated the Rome Statute in International Criminal Court Act of 2010. This act can be used only in Uganda, and involves crimes like genocide, crimes against humanity, and war crimes. It is important to mention that it includes only crimes that were committed after 25th of June 2010, which make the Rome Statute inapplicable on atrocities that happened in northern Uganda under Kony's LRA (Swedish Red Cross 2015, p. 33).

The conflict in Uganda can be marked as an internal civil strife, and thus the Ugandan Penal Code can be applied in all part of the country, regardless whether or not IHL overlays on that or not, under definite conditions. Additionally, the conflict took part in some parts of the country and not in others, which means that IHL and IHRL can be applicable assuming

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<sup>12</sup> The Penal Code Act was adopted in 1950, and it refers to criminal law within Uganda. It mentions general principles of criminal law, all crimes including the punishment imposed to numerous of transgressions that are in compliance with the Act. Specifically, the punishment granted by the Uganda Penal Code Act, for a person condemned of murder, is dead (Hardy 2017, p. 35).

that crimes against humanity, and violation children's rights were sufficiently connected with the conflict. It is clear that Uganda had been facing a lengthy conflict with a revolutionary group, the LRA, under the leadership of Joseph Kony. Dissidents, or those who had not complied with Kony, had been executed, regardless of their gender or age, however the group had never controlled any territory where the conflict had spread, or in any countries mentioned above. As the only exception can be considered base camps in DRC during negotiations with the Ugandan government from 2006 up to 2008 (Bailey 2017, p. 265–266).

Despite the fact that conflict had spread over other territories, the LRA conflict can be considered as a non-international armed conflict, and thus Common Article 3 of the Geneva Conventions supposed to be applicable to this issue, nevertheless its Additional Protocol I is excluded in this case because there is no evidence of control by Sudan or other outside states, moreover an “international” component of the conflict appeared just in period between 1998 and 2003, when the conflict was between Uganda and DRC. Furthermore, the LRA has never controlled any territory, and the armistice was concluded between the LRA and the Ugandan government. For this reason, the Additional Protocol I cannot be applied to this issue (Bailey 2017, p. 270).

More suitable would be the Additional Protocol II which relates to conflicts with non-international character. Specifically, the most problematic seems to be the implementation of Article 4 that mentions child protection as well as the recruitment that should not be below the age of 15 years old. The problem here lies in the fact, that the Protocol II states the recruitment of children by state armies or armed groups under responsible command, which exercise control over part of its territory. Joseph Kony could probably be considered as a responsible command, however the LRA have not controlled any territory, as is mentioned above. This situation was later adjusted by OPAC that makes differences in recruiting children between armed forces and non-state armed groups. Nevertheless, Uganda adopted this Protocol in 2002, which was again, later than the conflict had even started. Moreover, none of these Protocols I and II could be implemented, since the Ugandan government have not incorporated them into their domestic law yet (Swedish Red Cross 2015, p. 32–33). Regarding to the African Children's Charter which states, that children cannot be recruited under the age of 18 without any distinguishes between compulsory or voluntary recruitment, unlike in the OPAC, the LRA committed grave violations of this Charter which Uganda ratified in 1994. The problem with its application

was, once again, with the Ugandan government which had not created a specific provision that would ban the recruitment of children until 2005, and thus all previous years, there had been a strong non-compliance and violation of this Charter (Africa Union 2013, p. 10–11).

In legal terms, Uganda is a dualistic state, which means, that besides accession and ratification of international treaties and documents, they must be incorporated into domestic legislation as well. The Geneva Conventions were incorporated into national law in 1964, through the Geneva Conventions Act. The Additional Protocols I and II were signed and ratified, however they have not been domesticated yet. The Geneva Conventions are thus applicable to international armed conflicts, and thanks to Common Article 3 to non-international armed conflicts as well. The Ugandan Geneva Convention Acts stipulates prosecution for grave violation in Article 147, Fourth Geneva Convention on protection of non-combatants. However, this provision is not applicable to intrastate conflict, and Common Article 3 is not connected to any penalty in domestic law, and therefore it cannot be applied in criminal proceedings (Swedish Red Cross 2015, p. 32–33).

In the meantime, only one leader from the LRA was indicated for committing grave violations in Uganda. His name is Thomas Kwoyelo, and his condemnation was based on the Fourth Geneva Convention and other penal legislation including killing and abductions. Nevertheless, Thomas Kwoyelo applied for amnesty in compliance with the Amnesty Act, that Uganda adopted in 2000, which will be discussed below (Swedish Red Cross 2015, p. 33). Kwoyelo defends himself on the basis of this Act because one of his superiors, Caesar Acellam, granted amnesty under this law, which representing the situation of selective justice (Hazan 2017).

Moreover, another problematic question seems to be the status of combatants from the LRA, because the group was mainly comprised of children or kidnapped persons. According to the customary international law, mentioned in chapter 3, children under the age of 15 cannot be recruited or participated in hostilities, however the LRA for over 20 years have recruited children as part of their army (Bailey 2017, p. 271). Most members of the LRA can be considered as unprivileged fellows, and the Third Geneva Convention Article 4(2)(a) defines them as: “[M]embers of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied,



*provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:*

*a) that of being commanded by a person responsible for his subordinates” (III Geneva Convention 1949, Article 4(2)(a), p. 92).*

According to this Article can be assumed, that Kony was definitely a leader of the LRA, especially by providing his orders to other members of the group. He built his military army in which his fellows had uniforms, ranks as well as unit structures (Bailey 2017, p. 273). These members were with a clear membership in the group, and thus the UPDF had the right to carry out of targeting against these persons. The situation was more complicated when members did not have a uniform, and had to fulfil military tasks or other supporting roles. Nonetheless, in any case, for Kony and his fellows cannot be applied “prisoner of war” status, and they can be prosecuted under Ugandan law, including war crimes which breaches of IHL committed in the conflict (Bailey 2017, p. 274).

Additional factor, which relates to the relevance of IHL in armed conflict with the LRA, is the Ugandan Amnesty Act from 2000. This act was adopted in order to promote peace and support negotiations between the Ugandan government and the LRA, mainly at the time, when the conflict had spread in northern Uganda. The declaration of Amnesty is defined as:

*(1) “[A]n amnesty is declared in respect of any Ugandan who has at any time since the 26th day of January, 1986, engaged in or is engaging in war or armed rebellion against the government of the Republic of Uganda by*

*(a) actual participation in combat;*

*(b) collaborating with the perpetrators of the war or armed rebellion;*

*(c) committing any other crime in the furtherance of the war or armed rebellion; or*

*(d) assisting or aiding the conduct or prosecution of the war or armed rebellion.*

*(2) A person referred to under subsection (1) shall not be prosecuted or subjected to any form of punishment for the participation in the war or rebellion for any crime committed in the cause of the war or armed rebellion” (The Amnesty Act 2000, Article 2(1), Article 2(2)).*

The Act stipulates that any person granted such amnesty should not be put on trial or exposed to any form of punishment for their involvement in conflict. For getting amnesty, the individual must follow all regulations that are mentioned in the Act as a “reporter” which includes reporting to relevant authority, stopping and giving up any participation in combat, handing over all weapons which they possessed, and after meeting all of these conditions, they obtain a Certificate of Amnesty (Hardy 2012, p. 35). Additionally, the law also provides amnesty for those, who have already been accused, or who are in custody for any crime relating to the conflict. Amnesty will be given just to those individuals, who will act in compliance with all necessary requirements for amnesty, how it is stated in the Act. The main purpose of this Act is to give an absolute amnesty to all those, who have committed any infringement of IHL, including international and domestic crimes relating to the context of the conflict (Hardy 2012, p. 36).

The Act was amended in 2001 by incorporating a provision which mentions the impossibility of granting amnesty to one individual on more than one crime. This amendment was created as a consequence for punishing those individuals, who after getting amnesty, went back to conflict areas, where they committed violent crimes again. Another amendment was executed in 2006, which allows the Ugandan Minister of Internal Affairs to announce any individual inappropriate to be given amnesty. The Minister, for proclaiming such an individual ineligible, must do this by statutory instrument, and must obtain the permission from the Parliament (Hardy 2012, p. 36).

Opinions about the implementation of this Act varied, for instance the UN High Commissioner for Human Rights proclaimed this Act as a violation of international law, especially when Uganda integrated the ICC Act into their domestic law system, because the ICC Statutes outlaw amnesties for culprits of international crimes (e.g. genocide, war crimes, crimes against humanity). Furthermore, at present, the ICC is trying Dominic Ongwen, one of the main LRA leaders, accused by the Court in Hague. Ongwen had been kidnapped by the LRA before he became one of its leaders, and therefore faces up to 70 charges of war crimes and crimes against humanity (Hazan 2017).

To conclude, domestic courts in Uganda, due to lack of incorporated IHL into its national legislation, could not successfully address the crimes committed during the conflict with the LRA. Moreover, IHL and its specific penal legislation adopted by Uganda, was not

applicable to intrastate conflict accompanied by the lack of procedural legislation, including the protection of witnesses, and an overall lack of information within the judiciary on IHL. These practical obstacles in investigation of crimes, committed by the LRA against Ugandan children, can be perceived as the main problems with accountability (Swedish Red Cross 2015, p. 33).

Regarding to the implementation of other important documents, such as the Convention on the Rights of the Child that Uganda ratified in 1990, or the OPAC ratified in 2002, do not seem unproblematic as well. On the one hand, thanks to signing these two important documents, which promote and protect children's rights, Uganda is better place for children now, including lower maternal mortality or education. These successes are also results of the work and programmes of governmental as well as non-governmental organizations, mentioned in chapter 4. On the other hand, more efforts are still required to guarantee for ensuring that children will enjoy all of their rights, because many of them across the country live under conditions that are not in accordance with CRC. These conditions are, for example, poverty, hunger, lack of opportunities for education as well as quality of education, absence of sufficient health care and basic services, and the most problematic are the various forms of violence, such as forcing into early marriages or harmful traditional rituals (UN Children's Fund 2018). Moreover, Ministry of Gender, Labour and Social Development in Uganda, released report called *Violence against children in Uganda* in which they revealed that some Ugandan legislation was in accordance with CRC altogether with legislation related to nationality, child protection, juvenile justice, crimes against children as well as the treatment of victims of armed conflict in Uganda (UNICEF 2018). Despite the certain progress, gaps in legislation have still remained, and not all national legal standards are in accordance with international humanitarian law and human rights treaties. In report are thus mentioned recommendations which government agencies in Uganda should adopt in order to accomplish their international commitments. Principles relating to children's rights can be strengthen, if they are respected by everyone, most notably within families and communities, schools, and other important institutions that provide services to children (UNICEF 2018).

## **5.7 Disarmament, Demobilization, and Reintegration**

The main aim of DDR process is to ensure the stability and safety on territories in which a post-conflict reconstruction takes place. This process is focused on a wide range of factors, such as political, military, security, humanitarian, or socioeconomic. During this procedure, weapons are handover by warriors, they are released from military structures, and they should be reintegrated back into society, tribe, or community. As a result, individuals become active participants in the process (UNDDR 2005). Firstly, it is important to determine who should be include into these principles. Any peace agreement, ceased between feuding parties, clearly defines armed forces or armed groups that can participate in DDR. The traditional view of a child soldier should be disregarded in order to involve all of them into this process. This view is often based on the assumption that a child soldier is an individual, fighting with a gun in hands, nevertheless, as was mentioned before, child soldiers obtained several roles during armed conflicts by which they were affected in numerous different ways. In other words, even those who were not involved in military operations, and played secondary roles, should have not been excluded from DDR. Therefore, programs of DDR are suitable for all former child soldiers, regardless of their age or gender (UNDDR 2005).

The most of former child soldiers who escaped, fled, or were released from the LRA, took part in disarmament, demobilization, and reintegration process, supported by the Ugandan government. This process supposed to help children to return back to normal life before their abduction. Unfortunately, the Ugandan government keened too much on established programmes from NGOs and other organizations for reintegration of the former combatants. Those programmes were usually short-term solutions due to its lack of information about Ugandan history and culture in Acholiland, because they did not take into consideration cultural healing ceremonies, which were important for members of the community (La Branche 2015).

In year 2000, as is described above, was adopted the Amnesty law, which was based on the principles of disarmament, demobilization, and reintegration (DDR)<sup>13</sup>. Through this

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<sup>13</sup> Other disarmament activities appeared in August 2006, when the Ugandan government and the LRA reached an agreement in Juba, located in Southern Sudan. The agreement presents a cessation of combats between the parties, and it should lead to sign a peace treaty to commence DDR (Escolapau 2009, p. 113).

law, the country's population had the opportunity to obtain amnesty. The law was primarily focused on individuals who were participating in fighting in Uganda, but also against the Ugandan government, including those, who helped them. In connection with this law, two bodies were created in order to control the process of DDR. The Amnesty Commission which should have overseen programmes for demobilization and reintegration, and the Team for Demobilization and Resettlement which helped with reintegration or re-equalization (ICRC undated f, p. 3–5).

Nevertheless, it is important to mention that the law has several obstacles. The first one is that the law is not targeted just on members of the LRA, but on all individuals who were involved in this conflict. The second one related to the fact, that the law excluded children under the age of 12 from the process of DDR, even though the LRA was mainly composed of children younger than 18 years old, and their preferred age for the recruitment was exactly around 12 years old (Escolapau 2009, p. 114). The most ironic consequence is that abducted children, especially girls who were forced into marriage and slavery, were excluded from this law, and conversely, the perpetrators of the conflict were granted amnesty, moreover they obtained a small amount of money for their better reintegration. This kind of discrimination of victims could not lead to smooth reconciliation. For this reason, the Ugandan government should make the Amnesty law more restrictive, without amnesty for those who committed grave violent acts, mainly international crimes. Moreover, this would bring Ugandan law in compliance with the ICC (Hazan 2017).

Other difficulties of the DDR in Uganda relate with the lack of exiting research on child soldiers' reintegration process, which makes it almost impossible to evaluate, whether the situation gets better, and whether those programmes are in some way helpful or not. The best solution could be, if the Ugandan government implement its own programmes, which would take into consideration the Acholi cultural tradition dealing with trauma, and they would not rely on activities and help providing by NGOs. The sooner they will start their own research on DDR programmes, the better outcomes can be expected in the future, because most of ex-combatants are adults now, and it is important to help them to live their lives normally, overcome traumas from the past, and involve them into their communities, which could have better impacts on prosperity of the whole region (La Brenche 2015).

Major obstacles which should be overcome by Ugandan government, can be summarized as follows: the problem with a substantial number of returners who are going back home without inform the authorities, reintegration is weakened by the massive displacement of people, ex-combatants are very often reintegrated back to camps for internationally displaced persons, and their situation is full of poverty and insecurity. Another problem is that some former LRA commanders have got jobs and salaries from the Ugandan government, that not all Uganda's people might have tolerated, which could have a negative impact on maintaining peace in the country (Borzello 2007, p. 387–415).

Some recommendations for the future development could be, that the country should invest more money into dismantle of those camps, and thus help families and their children to rebuild their region for standard living. The next step is the greater impact on justice and reconciliation that could be achieved by strengthening the police and courts, because disagreement, over whether, and how to punish those who committed crimes and violence, has still remained. The government should also take care about the political stability, because if they create a democratic climate in the Acholi region, the re-escalation of the conflict will be very unlikely (Borzello 2007, p. 387–415).

The other important factor is focusing on stabilization processes in neighbouring countries, like in the Central African Republic and the Democratic Republic of Congo, because at this moment, the LRA still operates in both states, since Kony shifted his forces there in 2008. During the year 2018 was abducted about 124 civilians, and it was published a list of abducted children in these countries. For solving the situation helps the LRA Crisis Tracker, which reports LRA attacks, and notifies email subscribers. However, former child soldiers have remained the problem for Uganda until nowadays, and therefore they should follow these steps for improving the situation. The positive outcome of this tracker is, that during the previous year, there is no evidence about the recruitment of new child soldiers in Uganda (Preston 2018).

## **6. Case Study: ISIS**

In this chapter will be presented a case study of the Islamic State of Iraq and Syria. This example was chosen because its members have started to recruit and abuse children for their operations as well, and they recruit children who are under the age of 18, and treat them exactly the same as adult soldiers. Moreover, ISIS child soldiers pose a huge threat for peace

and security, and its future development. Firstly, the author will focus on the development of this issue, then follows the same patterns like in the previous chapter, which are the main reasons for the recruitment, including religious and motivational factors, training process, the abuse of children for ISIS activities with some examples from practice, the legal protection and practice in Syria and Iraq, implementation of international humanitarian law, and last but not least, the disarmament, demobilization, and reintegration process.

## **6.1 Context**

The Islamic State is a militant organization that emerged from al Qaeda in 2014, and as a founder can be considered Abu Bakr al-Baghdadi from Iraq. After its creation, ISIS started to take control over several territories in Iraq and Syria, nevertheless their acts and behaviour were so brutal, that even al Qaeda disclaimed its connection to them. The group can be also called as the Islamic State of Iraq and the Levant (ISIL) or just the Islamic State (IS). ISIS mainly comprises of Sunni militants from Iraq and Syria, however they have a support worldwide, even in Europe. Their main goal is to create a caliphate across Iraq, Syria, and other territories under the strict Sharia law (Elbaum 2018). For creating this state, they are committing acts of violence without respect for human rights and dignity. They have already killed dozens of people including public executions. Members of the group destroyed holy sites and authentic antiquities despite the fact that their leaders calling for the returning to an old Islam. In 2014, they controlled 34.000 square miles in Syria and Iraq, nevertheless in 2016 the United States calculated that ISIS lost 40 % of its territory (CNN Library 2019). They use social media for their propaganda, and for promoting religious fundamentalism. Their funding mainly comes from smuggling, oil production, selling stolen objects, ransoms from abduction, or blackmailing. According to the UN report from 2015, ISIS enslaved around 35.000 people, most of them were women and children from the Yazidi community, but they recruited civilians from other minorities as well. Women and children should support the group's activities including military operations. For this reason, they have become suicide bombers, nevertheless for children the situation is even more critical because they should become leaders of the “next generation” (Elbaum 2018).

Traditionally, non-state armed groups use children for their military operations and other activities by creating youth wings or specialized brigades, where the main objectives were preparing them ideologically as well as unifying their political views and opinions. In many armed groups, children are activated for front-line operations when they reach the age of 16,

however in the case of ISIS was found out, that they engage children who are even younger. ISIS sends on the front-lines activities even children who are just 6 years old. One of the most common practice, how children are involved in hostilities, and how they can become proper members of the group, is to force them to kill or perform some act of brutality against their own families. This has an enormous psychological effect, because if a child commits an act of brutality, it causes a psychological break, and they are more willing to be attached to a new entity, in this case to ISIS (Bloom 2018, p. 40–42).

In the case of Uganda or other African countries, the development of child soldiers and their recruitment was mainly done by kidnapping from their families and giving them some training or certain roles after. In the case of ISIS, children are raised like soldiers since the very early age, and they are often exposed to corporal punishment of prisoners or those, who do not subscribe to the doctrine of ISIS. This results in a situation in which the vast majority of them have become immune to violence and cruelty. They have also become part of ISIS' propaganda videos in which they usually represent an image of soldiers, holding a gun in their hands, and telling others what tasks should be followed (Bloom 2018, p. 42–43).

The Islamic State poses an enormous threat to children because they are kidnapping, enslaving, or trafficking by the group. According to the UN, around 800-900 children were abducted by ISIS in 2015 in Iraq (Mosul), moreover many parents are giving their children away voluntarily because they are influenced by ISIS' propaganda, and they are convinced that their children will become a part of the new leading generation. When children are taken by the group, they are very often put into religious camps, and those who reached the age around 10 years old, are put into military training. If some children become dissidents or disobey leaders, they are very often punished or even killed (Collet 2016).

According to researchers at Georgia State University, who analysed the nationality, age, role, and cause of death among child soldiers, was confirmed, that 89 boys between 8 – 18 years old were used for ISIS' propaganda, and their nationality was particularly Syrian or Iraqi. These children were used as suicide bombers, and they caused around 20 % of reported deaths (Collet 2016). The most problematic seems to be the big number of children, who are recruited by ISIS, which tripled in 2015 compare to 2014. This tactic, supported by ISIS, is very adverse, because they desire is to create a real permanent state, and by recruiting children, indoctrinating them, and giving them some training, they pose a huge challenge for



the international community, for which the reintegration or elimination of this new generation will be more complicated (Collet 2016).

## **6.2 Reasons for the recruitment**

Children in ISIS have been its integral part since the beginning of their operations, and they can become members of the group by two manners, voluntarily or forcibly. There are several reasons for child recruitment, just as means, how ISIS takes control over many of them. ISIS nicknames recruited children “cubs”, or more precisely “Cubs of the Caliphate”, which is a term used by international media as well. One of the biggest advantage of ISIS' recruitment is its unique character because many parents of these children take direct part in the group, live or work in ISIS territory, and very often agree with its ideology and with children's violent indoctrination (Lowry 2019). ISIS tries to integrate children into their society by learning them about arms, violence, ISIS ideology, and this all is supported by the Caliphate's school system. These children are very often witnesses of violent situations, they experienced them because they are forced to take a direct part, and they have to live with this psychological trauma in an ultraviolent society where physical violence, torturing, abusing, and killing, are on daily basis (Lowry 2019).

One of the main tool for recruiting children is by ISIS propaganda. The group has released several videos in which they demonstrate how child soldiers are training, praying, learning the ideology, or practicing weaponry, especially in provinces like the ISIS Raqqa province and the ISIS Syria-Iraq border province. These videos were distributed, and they should have targeted children as well as their parents, and should have shown that violent behaviour of children is a common practice, and it is acceptable in children's upbringing and education. They also point out that children are key members of ISIS society, because they are the next generation who will lead the state. On the contrary, children, who are recruited, are not becoming members who supposed to follow education in religious studies or weapons training. They are very often used as life shields for military operations or as suicide bombers, which means, that not many of them reach adulthood, and thus when ISIS talks about the new generation of leaders and their child-friendly environment in their propaganda, it is just a coverage for recruiting and influencing even a greater number of children for reaching their objectives (Lowry 2019).

Another reason, why recruiting children instead of adults is more advantageous, is that children are undergoing the moral development, and so ISIS can easily affects their personality and deepens mistrust for everyone who is a non-believer, even for their parents. ISIS treats children as adult soldiers, and they completely ignore the concept of childhood, moreover ages of children in propaganda videos are not released. As soldiers, children are losing the most important years of their lives, particularly during school years, because this causes obstacles with their reintegration after warfare. ISIS children do not have any other skills which support their unsocial and further criminal behaviour. This poses a great problem for many NGOs and other governmental organizations, because they do not know, how to cope with this issue, and how to integrate former child soldiers back into society, if two of the most important patterns - family and religion, have been manipulated and influenced by the group (Collet 2016).

### **6.3 Training process**

It is estimated that around 2000 children have taken part in ISIS training camps. Children have been learning how to use light and medium weaponry, shoot, dismantle and reassemble weapons, and do other necessary tasks for supporting the group, such as spying, logistics, cooking, guard duties etc. One of the main practice, which the organization uses, is teaching them how to think about Islam, and how to spread these ideas and influence infidels with this extremist view. Except religious education and process of socialization, children are very often forced into acts of brutality like torturing, killing, inhuman treating, and for becoming militants, they have to take a direct part into violent acts, oftentimes against their families (Hanoush 2017). In general, if they do this kind of violation, their families will not accept their return, and thus children are more affiliated with a new entity. By these violent activities ISIS prevent their escaping (Bloom 2015).

On the basis of the reports of the OHCHR, ISIS has built many training camps in Aleppo and in the surroundings of this city, especially for recruiting children and giving them different types of roles in combat operations. The group usually recruit children between the age of 14 or 15, however they are able to use even younger. For instance, in Syrian city Al-Raqqah, children are recruited and trained since the age of 10. It is important to mention, that if ISIS recruits children under the age of 18, they are violating IHRL, nevertheless if they recruit children under the age of 15, they are committing a war crime (UN General Assembly 2014, p. 15).

ISIS child soldiers undergo the same training process as adult soldiers, and as an exchange, leaders offer them or to members of their families financial rewards. According to Mia Bloom, child soldiers in ISIS are divided into 5 groups: those who are born to foreign combatants or immigrants, those who are born to local fighters, those who are orphans or abandoned, those who had been abducted from their families, and those who voluntarily joined the group (Bloom 2015). The training process usually combines military training as well as religious education. These two patterns are the most important because child soldiers have to spread the idea of Sunni Islam, and furthermore they have to be supportive in military operations in which they usually represent suicide bombers (UN General Assembly 2014, p. 15). Lately was found out, that children who have a good communication skills and understand well the ideology of ISIS, serve as recruiters, adopt public-speaking roles, or take a direct part in ISIS' propaganda videos for influencing other children. In addition, they encourage adults into action, and persuade other children to join ISIS in order to gain status, purpose, or admiration from leaders as well as public (Bloom 2015). Newly trained Cubs are publicly paraded in uniforms like adult soldiers, and they are holding many weapons for signalling their power and discipline. In propaganda videos, they are encouraged to stand still, while enduring a beating from older commanders. Other young children often look curiously at this process with a huge admiration. This whole process repeats again with every wave of newly trained children (Bloom 2015).

#### **6.4 Abuse of Children**

As was described above, ISIS recruits children basically by two means, voluntarily and forcibly. Once they are recruited, they undergo a training where this line is blurred, and they are deployed as soldiers who fulfil numerous tasks, mainly in military operations, such as fighters, suicide bombers, guards, or munition carriers. Besides military tasks, children serve as ISIS' big advantage because they appear very often in their propaganda videos by which they are causing an enormous psychological effect on viewers, especially because they perpetrate a grave violence which, from someone like a child, is completely unexpected and unnatural (Bradley 2018, p. 581). According to many researchers, it exists 6 stages of child socialization to ISIS which includes - seduction, schooling, selection, subjugation, specialization, and stationing. Some of these children come from foreign families who are acquainted with ISIS' ideology and child soldiering over time, on the contrary, the local

families very often, due to lack of money or other social problems, send their children to join the group voluntarily (Karasapan 2017).

Likewise in Uganda, children in ISIS have played a direct part in many horrific stories. For instance, in March 2015 a group of adolescent child soldiers beheaded a group of Alawite prisoners. Another is from December 2015, when a group of young boys were used for ISIS propaganda video in which they played the game called “hide-and-seek” and were filmed, how they were racing each other in order to find and kill a captive who was hidden and tied up inside the ruins of a castle in Syria. Or in January 2016, when the group uploaded photos of 11 years old boy who was kissing his father’s hand before he was sent to a suicide attack mission against a truck with explosives (Bradley 2018, p. 581–582).

What the author assumes important to mention is, that military activities, including suicide missions, are usually done by boys, and thus girls are excluded from the recruitment and training process. Nevertheless, both genders are influenced by a radical view of Sunni Islam at school, and children are indoctrinated at a very early age, which means, that they are losing the possibility to learn other important skills. For this reason, the group puts a special attention to girls with indoctrination because they should become wives of future ISIS commanders, and thus their main task is helping the group to create a caliphate, and spread and support their ideology (Bloom 2018, p. 43).

Besides raising girls as ISIS servants, they are also victims of abductions, like it was in southern Sinjar where the group kidnapped 500 women and girls, and 150 of them were sent to Syria, where they served as a reward for fighters, and after they were raped, they were sold in a market (Marcus 2014). To prevent cruelties like this, the international community altogether with governmental and non-governmental organizations should take an action because the situation will be even more untenable in the future. One of the biggest challenge has still remained the process of reintegration, and therefore it is important to pay a special attention to DDR programmes that should be more in compliance with what ISIS former child soldiers really need.

## **6.5 The legal protection of children in Iraq and Syria**

Children in Iraq are very often victims of armed conflicts, explosive devices, car bombs, anti-personal mines, and thus they represent around 8.1 % of total number of people being killed in hostilities (Humanium undated b). Besides this, they are very often recruited as

child soldiers by armed groups and terrorist organizations, or they are forced into child labour despite the existence of laws (Humanium undated b). The main Articles in Iraq's constitution, 2005, mentioning the legal protection of children as well as their legal responsibility are Articles Nos. 29, 30, and 37. Article 29 First presents that „*[t]he State shall guarantee the protection of motherhood, childhood and old age, shall care for children and youth, and shall provide them with the appropriate conditions to develop their talents and abilities*”; Article 29 Second: “*[C]hildren have the right to upbringing, care and education from their parents. Parents have the right to respect and care from their children, especially in times of need, disability, and old age*”; and Article 29 Third: “*[E]conomic exploitation of children in all of its forms shall be prohibited, and the State shall take the necessary measures for their protection*” (Iraq's Constitution 2005, Article 29). From these Articles is evident that Iraq's government has the responsibility to protect children from a child labour and exploitation, support their education, and provide them the necessary support, on the contrary, children has a duty to take care of their parents, if they need it.

Article 30 First mentions that “*[t]he State shall guarantee to the individual and the family - especially children and women – social and health security, the basic requirements for living a free and decent life, and shall secure for them suitable income and appropriate housing*” (Iraq's Constitution 2005, Article 30) and Article 37 Third relates to liberties and states that “*[F]orced labor, slavery, slave trade, trafficking in women or children, and sex trade shall be prohibited*” (Iraq's Constitution 2005, Article 37). The problem of Article 37 is its implementation in practice because many children in Iraq, especially in the region of Kurdistan, are victims of human trafficking, mainly young girls who are sold for becoming servants or prostitutes (Humanium undated b).

In connection with the international legal framework, Iraq ratified the Geneva Conventions in 1956, Additional Protocol I to the Geneva Conventions in 2010, the Convention on the Rights of the Child in 1994, and the Optional Protocol on the involvement of children in armed conflict in 2008 (ICRC undated g). By signing these documents, Iraq made a commitment to follow their rules, which means, that the recruitment practice should be since the age of 18. Nevertheless, according to some researches, Iraq accepts voluntarily recruitment since the age of 15, entrance to the officer academy for military training is from the age of 16, and thus some officers in armed forces could be just 17 years old (Child Soldiers International 2001). Moreover, Iraq's 1983 Juvenile Welfare Act stipulates that the

age of criminal responsibility is since 9 years old, no child under the age of 14 cannot be held in detention, if they are older than 14 years old, they can be held in custody, only if they killed someone, and they can be judged only by the Juvenile Court which can send them to a “youth rehabilitation school” for maximum 15 years and minimum 5 years (Humans Rights Watch 2019).

In the case of Syria, the situation is even worse and more critical. It has been 8 years since the Syrian civil war has begun, and the most vulnerable victims of this war are children. It is estimated that around 2.6 million children are displaced inside the country and 2.5 million children live as refugees in neighbouring countries. In addition, year 2018 was the most deadly year for children, since the war has started, and grave violations of children's rights are there on daily basis (UNICEF undated e).

The Syrian constitution, 2012, is more austere in defining children's rights than the Iraqi constitution. The only Article which mentions their support and protection is Article No. 20 in Chapter III: Social Principals. The Article states that “*[T]he state shall protect and encourage marriage, and shall work on removing material and social obstacles that hinder it. The state shall also protect maternity and childhood, take care of young children and youth and provide the suitable conditions for the development of their talents*” (Syria's Constitution 2012, Article 20 (2)).

On the contrary, Syria was more active in supporting international treaties and documents because it ratified the Geneva Conventions in 1953, Additional Protocol (I) to the Geneva Conventions in 1983, the Convention on the Rights of the Child in 1993, ILO Convention No. 183 in 2003, and by acceding the OPAC in 2003, they started to support the recruitment practice since the age of 18 (ICRC undated h). Moreover, Syria also works with the ICRC for training military officials in IHL as part of efforts to incorporate this law into theoretical and practical military training and civil society. The Committee on the Rights of the Child tries to increase the awareness of the Convention on the Rights of the Child, nevertheless Syria should improve its strategy for implementing these programmes more systematically (Child Soldiers International 2008b). Despite the existence of the legal protection in both countries, the ISIS has spread the chaos in several territories of Iraq and Syria, and both countries have been failing in order to promote children's rights and stop their abuse and recruitment.

### **6. 5. 1 The Legal Framework of the use of children by the Islamic State**

ISIS leaders call their group a state, however the group does not fulfil all conditions that are required for becoming a sovereign state. There is no certain definition, among international law, what a “state” is, nevertheless there are some characteristics which were accepted by the international community, and which should be followed. Conditions that are required, are mentioned in Montevideo Convention on the Rights and Duties of States, 1933 (Bagheri 2017, p. 89). Article 1 of this Convention stipulates that “[t]he state as a person of international law should possess the following qualifications: a permanent population; a defined territory; government; and capacity to enter into relations with the other states” (Montevideo Convention on the Rights and Duties of States 1933, Article 1, p. 3). Only under these conditions state can be considered as sovereign, and can become member of the UN and other international organizations.

In the case of ISIS can be claimed that the group possesses a permanent population, because many people of the Sunni tribes follow Abu Bakr al-Baghdadi as their leader. Conversely, even if the group became the Jihadist Group in Iraq and Syria in April 2013, and took control over a large territory, and declared a global caliphate under the Sharia law, they do not have a defined territory. They just control several parts of Iraq and Syria, moreover this control is illegal and illegitimate because they acquired them by using force (Bagheri 2017, p. 89). In connection with the government, the group has the government represented by the main leaders, however it is not an effective government, because it would hardly be capable of having some relations with other states, or even being involved into the international community. According to these findings, ISIS does not fulfil the requirements for being a sovereign state, and therefore it is not an entity of international law (Bagheri 2017, p. 90).

The group thus represents a non-state armed group involved in armed conflict, and its main desire is to achieve its political and religious objectives. For this reason, it could be assumed that ISIS does not have to follow the Geneva Conventions, Additional Protocols, and other norms of customary international law, as is mentioned above. Nevertheless, this assumption is wrong, because even non-state armed groups have to act in accordance with the law. In other words, they are bound by the procedures of the states on which territories they operate. As it was presented in the previous chapter, Iraq as well as Syria acceded the most important treaties and documents related to IHL, and thus the group commits serious

crimes and they have no rights for recruiting or abusing children for reaching their objectives. The situation is even more complicated because the international community obliges non-state armed groups to follow these rules, but on the contrary, they do not offer them any recognized rights or legitimacy, which leads to even more complications in order to enforce the international legal framework against them, if they are considered as illegitimate in the first place (Bagheri 2017, p. 91).

## **6.6 Implementation of international humanitarian law**

In recent years, the international community has to deal with an increasing number of non-state armed groups which represent a combination of a hybridity of state and a non-state-like nature. As a classical example of this non-state armed group can be also marked so-called the Islamic State. This development requires further enlargement of international legal framework in order to protect innocent civilians, particularly children who are affected by this conflict (Edwards 2017, p. 1).

In general, acts of terror against civilians are prohibited by both presented group of laws, IHL as well as IHRL. Despite the fact, that the international community has not been able to find a common definition for “terrorism” since 1920s, 19 sectoral conventions and several UN Security Council resolutions provide guidance by describing acts of terror. These international treaties and documents ban the use of violence against civilians with the intention to cause terror (Edwards 2017, p. 2).

ISIS, by their activities described above, has violated numerous international law provisions in Iraq, Syria, and other countries, moreover both countries are signatory states of numerous human rights treaties and its protocols. First at all, members of the group are committing crimes that are in contrary to IHL which poses several obligations to a non-state actor involved in armed conflict, as it is in Iraq and Syria. Common Article 3 of the Geneva Conventions is thus applicable to this conflict, and all parties are bound by this Article. Common Article 3 sets rules which must be followed during non-international armed conflict, such as the protection of non-combatants and medical workers, protection of cultural property, the medical treatment of the injured or ill, the human treatment of prisoners as well as the recruitment of children under the age of 18. As was described above, ISIS has rarely respected some of these laws, and the group's inhuman treatment of children, including their training and forcing into violent activities, are well documented by ISIS' propaganda



videos (Edwards 2017, p. 2). Interestingly, under IHL members of ISIS who participate in hostilities in Iraq and Syria can be legally targeted by military operations, moreover they can be also prosecuted for their involvement in the conflict because they are considered as unlawful fighters.

Additionally, by recruiting and abusing children under the age of 18, ISIS have committed grave violations that contravene international human rights law as well, nevertheless, the applicability of IHRL to ISIS has remained contentious, because this type of law is traditionally regarded as an obligation between a state and its population. Clapham identifies two main concerns relating to this issue. Firstly, the unintentional improvement of non-state armed group's legitimacy, and secondly, the undermining the value of international human rights law by obtruding on group's duties which do not have the ability to achieve, because human rights obligations are binding only on governments (Clapham 2006, p. 502). Bellal, on the contrary, claims, that IHRL can be applied to non-state armed groups which achieved a "de facto" authority, and thus present a state-like functions (Bellal 2015, p. 133). This can be applicable to the case of ISIS, because the group established its own courts, taxation, schooling system, or police forces in territories which they control, and so they can be considered as a de facto authority. In connection with this view, ISIS thus could violate several human rights, such as sexual slavery of young girls and women, recruiting children for military activities as combatants or suicide bombers, attacks against religious or ethnic minorities, and other inhuman treatment (Edwards 2017, p. 2–3).

ISIS thus poses a huge problem, limiting the effectiveness of the international legal framework. The rights and obligations resulting from international law, depend on suitable application of legal definitions. IHL thus requires an appropriate classification of the conflict as well as of those that are involved. According to Sassoli and Olsen, there must be a clear distinction between international armed conflict and non-international armed conflict which is connected with the nature of participants involved in the conflict (state or non-state actor), rather than the territory in which this conflict takes place (Sassoli, Olsen 2008, p. 601–602). In other words, the conflicts in Iraq and Syria can be seen as non-international armed conflicts because ISIS is considered as a non-state actor (Edwards 2017, p. 3). Moreover, Article 1(1) of the Additional Protocol II sets material conditions that have to be fulfilled, for the treaty to be applicable to a non-state armed group. These conditions include that armed group must be under responsible command, must have control over the territory, and

such territorial control must enable the group to be capable of implementing the Protocol (Bellal 2015, p. 134).

Furthermore, the problem appears with the legal status of individuals, under IHL, who are involved in non-international armed conflict. For this type of conflict is crucial to make differences between civilians and combatants in hostilities, because it affects the legality of state's activities against these persons as well as the possible prosecutions of those who directly participate in conflict. The issue lies in disagreement about what exactly is the direct participation in hostilities, and when participating civilians lose their immunity from attack (Edwards 2017, p. 3). According to the Geneva Conventions, Common Article 3 protects “[p]ersons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause” against “violence to life and person, in particular murder of all kinds” (ICRC undated i). Additional Protocol I Article 51(3) and Additional Protocol II Article 13(3) protect civilians against dangers resulting from military activities “[u]nless and for such time as they take a direct part in hostilities” (ICRC undated h). Moreover, according to the ICRC, only those who actively participating in hostilities can be considered as direct participants in conflict, which for instance, excludes those who make propaganda videos or collect funds (Edwards 2017, p. 3).

Another issue, related with the implementation of international law, seems to be the prosecution of ISIS members which has still remained challenging. CRC, OPAC, as well as ILO Convention on Worst Forms of Child Labour advocate children's rights, despite their involvement in hostilities, even if they are associated with non-state armed group or not. Children are considering as victims at any case, and they should be provided by restorative justice and social reintegration, how it is stated, for example in Article 39 of CRC<sup>14</sup> and Article 6 of OPAC<sup>15</sup>. On the contrary, those who recruit and abuse them as child soldiers

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<sup>14</sup> Article 39 of CRC is defined as: “[S]tates Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child” (OHCHR undated a, Article 39).

<sup>15</sup> Article 6 of OPAC is defined as:

should be prosecuted, because they are committing war crimes under the Geneva Conventions as well as under the ICC Statute (Bisset 2019). However, the question remains, whether those who recruit and use children as soldiers should be prosecuted under national law of Iraq and Syria or under the ICC. This issue arises legal as well as practical obstacles. Taking ISIS members in detention and prosecuting them is almost impossible, especially if we take into a consideration the situation in Iraq and Syria. This chaotic environment almost does not allow to collect important evidences that are necessary for trial, moreover particularly strenuous are the extradition procedures that are crucial for transferring suspects to another country or to the ICC for trial. Even if international conventions may suggest extradition, they often remain vague, and thus it is often rely on individual states to adopt acceptable measures (Edwards 2017, p. 4). For this reason, it is important Iraq's and Syria's compliance with IHL and IHRL, because thanks to its incorporation into their domestic legislations, they could successfully prosecute ISIS members. Moreover, neither Iraq nor Syria are parties to the Rome Statute, and thus the court has no territorial jurisdiction over crimes committed on their territories. The Rome Statute also limits the ICC's jurisdiction to those cases in which state is not able to investigate and prosecute perpetrators which ensures states sovereignty, and thus the ICC is the court of last resort (Edwards 2017, p. 4).

Currently, the major number of children are in internally displaced persons' camps in which they live under very poor conditions. Moreover, children of ISIS foreign fighters have been held in detention centres in Iraq where the legal age for criminal responsibility is from 9 years old. This is again in contradiction to CRC which recommends it since the age of 12. Furthermore, in accordance with children's status as victims, they should not be arrested,

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1. “[E]ach State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction” (OHCHR undated b, Article 6(1)).

2. “[S]tates Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike” (OHCHR undated, Article 6(2)).

3. “[S]tates Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration” (OHCHR undated b, Article 6(3)).

inspected, or prosecuted on the basis of association of their family members with ISIS, or by illegal presence and entry in both countries (Athie 2018).

Besides atrocities committed by ISIS, one of the major concern in Iraq and Syria is also torturing and ill-treatment of children who are accused of affiliation with the group, and thus many communities in Iraq and Syria have continued to violate children's rights, despite promises to investigate accusations (Watchlist 2019a). Moreover, according to the last report from the Secretary General, recruitment and abuse of children was the second most predominant confirmed issue, with 82 % of the 3 377 verified cases in which children played a role in combat. The report also points out on human trafficking as well as cross-border recruitment and use of children by foreign non-state armed groups (Watchlist 2019a).

Because IHL as well as national law of both countries have been failing in order to improve the situation, some recommendations from the non-governmental organization Watchlist on Children and Armed Conflict could influence the future development. These recommendations can be summarized as follows: urge both governments to adopt concrete actions for ensuring the accountability and ending all grave violations against children. For successful accomplishing of these tasks is suggested to establish an investigative team which would enhance the work of Iraqi and Syrian judges, investigators, and prosecutors. In addition, it is still important reminding to all sides, affected by the conflict, that children are victims of this conflict, and thus they should enjoy all their rights. Governments should participate on Action Plan with the United Nations for ending and preventing the recruitment and abuse of children, and for immediate releasing of those who are associated with ISIS and other non-state armed groups. For example, even if Syria in 2013 adopted national law which forbids the recruitment of children and their involvement in hostilities, its national plan for preventing child participation in non-state armed groups is unsuccessful, and thus they should cooperate more with the United Nations, UNICEF or other children's rights defendants for better implementation of national law, in line with IHL, which would ensure the protection of children as well as their families. Last but not least, both states should focus on the humanitarian mine action programming for reversing the rising number of child fatalities (Watchlist 2019b). By adopting these measures, and by acting in compliance with the international legal framework, the situation could be ameliorate in the future which could help both countries to cope with the problem that ISIS poses for them as well as for the international community in general.

## **6.7 Disarmament, Demobilization, and Reintegration**

Currently, the biggest problem with former child soldiers, who escaped or left ISIS, is their DDR process. In previous armed conflicts these programmes proved their usefulness and values. Children, after the conflict was over, were identified, weapons were removed from them and their surroundings, and they were placed to special centres, and later reunited with their families. The period of time which they spend in care centres varied according to each individual and also according to place and type of conflict (Hanoush 2017).

The problem with child soldiers from ISIS is that their family or tribe very often support jihadist ideology, and so it is not possible to reunite them because many members of their families have still hold an extremist view. One solution could be, if former child soldiers would take a part in mandatory rehabilitation programs which would take into consideration the situation of these children and their families. Children and their parents would be re-educated about violence, extremism, religion, and some basic skills for children who were not able to learn them before. This kind of method requires a real specialist, like trained practitioners as well as specialist in Islamic law (Hanoush 2017).

In the case of ISIS, DDR practice includes other “R” which signifies rehabilitation. Rehabilitation is a critical component of the whole process, and it refers to dealing with trauma for all people who were involved in armed conflict. It means, not include only children, but also the whole communities that were affected by the conflict. A key element of rehabilitation is children's transition back to childhood through reuniting with their families, nevertheless, in the case of ISIS' former child soldiers, this solution seems to be problematic, because their family members very often hold a radical view, and are influenced by ISIS' ideology, and thus they are losing the opportunity to accomplish the rehabilitation process successfully (Benotman, Malik 2016, p. 53–54).

One of the possible recommendation for overcoming this obstacle is proposed by Mia Bloom, who suggests the creation of a multi-pronged approach which would be addressed to children's psychological trauma, and also to the effects of having participated in hostilities and in numerous brutal acts. These children would be re-educated in combination with vocational training. She also recommends the separation with their families because they were the ones who encouraged them to join the group, fulfil their tasks bravely, and participate in ISIS' propaganda and violent activities (Bloom 2015). After the necessary re-

education, employment opportunities seem to be important as well, and they will probably influence the success of DDR in Iraq and Syria. Considering the ISIS' ideology which serve as one of their main tools for child recruitment, clerics, educators, and other specialists will play a key role in order to disprove their radical views which many children during ISIS' training had to adopt (Smith 2015).

The process of rehabilitation and reintegration will also be needed for thousands of children worldwide. The threat from ISIS and other similar group is global, and thus the solution for this situation must be global as well. Especially, in order to mobilize funds and expertise, otherwise these children will stuck in their past and will never be able to overcome their fears and become part of a society again (Karasapan 2017).

## **Conclusion**

Children participation in war or armed conflict is not a new phenomenon, nevertheless the growing number of non-state armed groups which are using child soldiers for their military purposes and other activities has grown significantly, and they pose a threat to international peace and security. The international community has to respond to this issue, which might be challenging. The most problematic seems to be the reintegration of former child soldiers which is an important and inevitable step how to mitigate national as well as international security threats. The main aim of this Master's thesis was to present and analyse child recruitment and abuse in armed conflicts, and present IHL and IHRL that were created in order to protect their rights. The author mainly worked with international treaties and documents which focused on children affected by armed conflicts, moreover, the most visible governmental and non-governmental organizations, whose try to promote children's rights, and prevent child recruitment or abuse by their tools and recommendations, were presented as well.

With the international legal framework relates the first research question which was defined in introduction: What are the weak and strong sides of international humanitarian law which was adopted in order to protect children's rights? After the overall evaluation of the most important documents which were created for child protection, it can be claimed, that international law consists of many norms and treaties which deal with violence against children, especially during armed conflicts. On the one hand, as one of the biggest step forward, which strengthen children's rights, can be considered the adoption of Additional

Protocols I and II to the Geneva Conventions which ensured, that children under the age of 15 should not be recruited or involved in any form of combat (ICRC undated b). Moreover, the strong side of the Geneva Conventions and its Additional Protocols is that they belong to customary international law, which means, that they are legally binding for every state, even for those which have not ratified them yet. Besides this, Common Article 3 of the Geneva Conventions enabled their application to international as well as non-international armed conflicts. Further important documents are the Convention on the Rights of the Child, and subsequently the Optional Protocol to the Convention on the Rights of the Child. CRC focuses on fundamental rights of children, and every child, everywhere in the world, has an equal access to these rights. Additionally, the major contribution of OPAC is that it changed the age limit for the recruitment of children from 15 to 18 years old, and it makes distinguishes between the recruitment by states and by armed groups, and consequently it also modifies the situation of compulsory and voluntary recruitment (OHCHR undated b).

On the other hand, despite the existence of several conventions, protocols, or norms for child protection, the issues have remained with their application in practice which undermines their effectiveness. For this reason, it is necessary to support the further development of the international humanitarian law over time, because the last treaty (CCM), was adopted in 2008. For providing more effective legal framework is necessary to take into consideration current types of wars and conflicts, such as the activities of non-state armed groups like ISIS, in order to deal with them successfully. After the analysis of the application of international law on selected cases, several obstacles revealed. The most problematic seems to be the application of the Geneva Conventions because for the international community, especially in the case of Uganda, was not easy to decide, whether the conflict had an international or non-international character. Moreover, Uganda by its spurious legal system avoid the possibility of application of Common Article 3 of the Geneva Conventions as well as the African Children's Charter. Within the ISIS, the problem was whether the group can be considered as a state, nevertheless it was found out that the group represents a non-state armed group which is bound by laws of territories on which the conflict takes place, more precisely in Iraq and Syria. These obstacles should be overcome in the future for better protection of children's rights and their involvement in armed conflicts. For improving the situation of child soldiers, it is necessary to support the cooperation of conflict affected states with the international legal framework. States thus should comply with

international humanitarian as well as human rights law, and they should incorporate these documents and treaties into their national legislations because thanks to this, children will have a chance for normal life, and they will enjoy all of their rights. It might be supported by a group of legal experts, and in case of ISIS, experts on Sharia law who would supervise and help with the implementation of international law into domestic legislations for conflict affected areas because by this, the international community could avoid problems with law enforcement and accountability. In order to deal with culprits of these conflicts, one of the possible solution could be the creation of a new special court which would have the jurisdiction over serious violations of human rights regardless of nationality or type of conflict.

Even if majority of states as well as non-state armed groups have followed these documents, it is still not a common practice everywhere, how cases of Uganda, and more recently ISIS, showed us. Despite the existence of Conventions and their Protocols, children in Uganda and ISIS were recruited and abused as child soldiers, and many of them were forced in brutal acts that had a negative impact on their physical as well as mental state. In the analytical part of this work were analysed these cases which served as instruments for demonstrating how children are recruited and abused, and which role international humanitarian law plays in both conflicts. With these conflicts relates other two research questions: What are the main differences in motivations for using child as a soldier in a revolutionary group the LRA and a jihadist group the Islamic State? And is there any possibility to find out common features between these two cases?

In the fifth chapter was found out, that the main motivations for the LRA child recruitment were, that children were easy targets because they could be influenced for committing crimes and participating in hostilities without much effort, they were psychologically more vulnerable than adults, they fulfilled their tasks responsibly, and in cases of girls, they were not infected by HIV, and thus many of them were forced into marriages with the LRA commanders, or they served as servants. Children in Uganda were very often orphans, they lived in poverty, and the LRA could offer them a new background for their living. Furthermore, those who were not orphans, were forced into brutal acts against their family members which made them more dependent on this new entity, because they lost the option of returning home. Nevertheless, the most common practice was child



abduction from Ugandan families, and after years of separation, they were reunited, mainly thanks to DDR programmes.

In the sixth chapter was analysed the case of ISIS. ISIS child soldiers are recruited at a very early age because they have to attend schools where they learn about radical Sunni Islam, about ISIS' main objectives, and they are trained in camps where they learn how to use weapons, bombs, or participate in other military and violent activities. The most problematic seems to be that children are raised like soldiers, and thus they grow up in an environment where violation is on daily basis. Within ISIS families is a common practice that children participate in hostilities or in propaganda videos, because parents often encourage them to join the group voluntarily. Families might obtain money or other rewards, as an exchange, or they might share the same radical view, and thus they believe that their children “Cubs of the Caliphate” will become leaders of a new generation, and they will serve to a higher purpose. Furthermore, the major concern is connected with their reintegration, because two of the most important patterns - family and religion, have been distorted and controlled by the group.

After the analyses of both cases was found out, that common features which groups share, are the recruitment of children younger than 18 years old, they do not distinguish the gender of these children, even if ISIS uses girls just for indoctrination, and thus they do not take direct part in hostilities. Children among both groups fulfil several roles and tasks, and one of the most common practice for their recruitment is abduction. Both groups also forced children into brutalities against their own families, by which they ensured their loyalty, and they destroyed the possibility of their returning home. On the contrary, it can be claimed, that both groups recruit and use child soldiers for different purposes. For instance, the LRA recruited children for the present, which means, that they needed those fighters mainly for their military operations, because Kony wanted to build a strong army and defeat the Ugandan government, and thus the LRA did not pay too much attention to their further education or potential. Consequently, if some of the LRA children tried to escape, disobeyed leaders, or were just ill, they were killed without hesitation. ISIS child soldiers, on the contrary, are recruited even for the future, because they should spread ISIS radical view, and they should support the creation of the caliphate. ISIS child soldiers thus obtain military training as well as psychological indoctrination which make them even more dangerous.

The most important for these children remains their reintegration into society, especially helping them to be back with their families, and increase their access to education. It is very important to stand up for children's rights because they are not able to do it by themselves, and they are not able to understand the consequences of their acts in those wars. The case from Uganda can serve as an example, how the situation can be solve, because thanks to the medialization of this issue, involvement of NGOs and other states, the conflict was ended, and former child soldiers could return to their homes, they were reunited with their families, and Ugandan government has made some steps for improving their situation. In the case of ISIS, the international community might use same tools like in Uganda, nevertheless they should not forget the specificity of this case which lies in the fact, that even parents of these children are indoctrinated, and thus they should create special programmes that will be focused on the whole families in order to help them to live their life normally. Because if de-radicalisation programmes families undergo together, their return to normalcy could be more successful. The international community should definitely pay the attention to this issue, and they should be more active, particularly if they want to avoid the worst outcome in the future.

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**Master's Thesis Summary**

**CHARLES UNIVERSITY**

**Faculty of Social Sciences**

**Institute of Political Studies**

**Diploma Thesis Project**

**Child Soldiers: Recruitment and Abuse of Children in Armed  
Conflicts**



Name: Karolina Karásková

Academic advisor: PhDr. Radana Makariusová, Ph.D.

Study programme: International relations

Year of project submission: 2017/2018

## **Introduction to the topic**

The contemporary world is full of violent conflicts from which many of them are not just between states, like it was in the past, but also among intrastate actors. In those wars are usually involved armed groups representing the state and one or more non-state groups, which very often use innocent civilians including children. These children are recruited and abused as child soldiers in many fighting groups around the world. The number of child soldiers in revolutionary or terrorist groups have grown significantly and despite the existence of several conventions, created by the international community, the problem of child soldiers has not been unresolved yet. It is estimated that around 250 000 children are recruited and involved in more than 30 conflicts worldwide (UNICEF undated a). As one of the most known case can be mentioned Lord's Resistance Army (LRA) led by Joseph Kony who terrorised children in northern Uganda and wanted to govern by the Biblical Ten Commandments (Byaruhanga 2017). However, the recruitment of children into armed groups is not connected just with regions in Africa but the problem has started to escalate even in the Middle East. Over the last few years, the Islamic State (ISIS) has started to use children for their military purposes and threat them exactly the same as adult soldiers (McLaughlin 2016).

For both cases is typical that they recruit members who are under the age of 18. There exist several reasons why children have become soldiers. Many of them do not have any material or family environment and because they are abandoned or orphans they join armed groups “voluntarily”, which can be seen especially in the case of ISIS. On the contrary, they could be kidnapped from their own families and then recruited, which is typical for LRA (UNICEF undated a). Children usually spend some time in training camps where after hard physical training a lot of them die. Those who survive the training process obtain roles such as fighters, messengers, spies or servants. Girls are very often forced into marriage or sexual slavery (Human Rights Watch undated). Protecting children from these atrocities is a legal responsibility and challenge for international peace and security.

## **Why this topic?**

I chose the problem of child soldiers because it is a very specific, actual and discussed topic in current international system, especially when we take into consideration that violence is committed by children. The second reason why I chose this topic is because in the Czech

Republic not many people are familiar with this issue and if so, it's usually connected with Africa, however the use of children in military activities have spread significantly even in other regions of the world, such as the Middle East. That is the reason why I chose two examples for my thesis where I will analyse how do children become involved in armed conflicts, like in Africa where one of the most known group is LRA as well as in the Middle East where the Islamic state has started to use them for their activities.

### **Literature review**

The phenomenon of child soldiers is much more discussed in English written publications and articles because in Czech environment this problem is not so common, and thus none of Czech authors is sufficiently interested in this issue. That is the reason why I will mainly work with English sources in my thesis, more precisely with international legal framework, which was created in order to protect children's rights. It is important to mention that those documents consist of a huge amount of information which I will not need to use for my topic, and thus I will interpret just those parts which are crucial for my thesis. Besides international treaties and protocols I will use official web sites and documents from governmental as well as non-governmental organizations that are involved in protection of children's rights such as the United Nations, UNICEF, ILO, Human Rights Watch, Invisible Children etc., which can be considered as relevant and verified sources.

### **Research target/ research questions**

The main goal of this diploma thesis is to analyse how children are recruited and used as soldiers in armed conflicts and how international conventions help them in order to protect their rights. Research questions are defined as following:

- Which factors explain that using child as a soldier is more advantageous than using adults?
- What are the weak and strong sides of international conventions which were adopted in order to protect children's rights?
- What are the main differences in motivations for using child as a soldier in a revolutionary group LRA and a terrorist group the Islamic State?

- Is there any possibility to find out common features between these two cases?

### **Conceptual/theoretical framework, research hypothesis**

My diploma thesis will be divided in two parts – theoretical and practical. In the first part I will focus on the conceptualization of children rights because the recruitment and abuse of child in an armed conflict is considered as a violation when the norm against the use of child soldiers has been stated by the international community in 1989 (Child Soldiers International undated). More precisely, I will work with the Convention on the Rights of the Child which is crucial for the presentation of the legal framework governing this issue. Then will be presented the definition of Child Soldier as well as the definition of Child Labour because these two concepts are closely related to each other. For these definitions I will primarily use information from the organization UNICEF (UNICEF 2011). In the next section I will focus on fundamental sources of law which were created in order to protect children's rights, namely The Geneva Conventions and their Additional Protocols, The Declaration of the Rights of the Child, the Convention on the Rights of the Child, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and Paris Principles and Paris Commitments on recruitment and use of children in hostilities. Because I will focus on the African continent I assume important to mention The African Charter on the Rights and Welfare of the Child, The Cape Town Principles as well as The Worst Forms of Child Labour Convention. Finally, I will focus on the International Criminal Court which was established in Hague for the prosecution of the culprits of the most serious crimes committed in territories or by nationalities of signatory states of the Rome Statute (ICC undated). Then I will mention the main activities of international governmental (UN Special Representative of the Secretary-General on violence against children, United Nations Children's Fund (UNICEF) and International Labour Organization (ILO)) and non-governmental organizations (Invisible Children, Watchlist on Children and Armed Conflict or Save the Children) that are the major proponents of children's rights.

### **Hypothesis**

- Hypothesis 1: Recruitment and abuse of child soldiers is easier and more advantageous than recruitment of adults.

- Hypothesis 2: Recruitment and abuse of child soldiers is a result of the lack of existing norms and conventions in international law.
- Hypothesis 3: Recruitment and abuse of child soldiers by LRA and ISIS have some common features despite their geographical, ethnic and religion differences.

### **Empirical data and analytical technique**

Research on the involvement of children in armed conflicts is heavily based on the existing international law which will serve as my theoretical framework, moreover I will use data from workings of governmental and non-governmental organizations, mainly from their official documents and reports. These information will be used in an empirical part of my thesis for analysing how international law functions in practice. The collected data from the first part will be applied at particular cases, namely LRA and ISIS (motivations, religion, location, reasons). After the analyses of these two cases I will finally compare all of my findings which help me to answer research questions and verify or falsify the hypothesis. For this reason I will use the method of comparative case study which is convenient for the explanation how children are used as soldiers in armed conflicts, moreover a comparative analysis with its different and similar patterns in findings offers a broader analytical perspective related to this topic.

### **Planned thesis outline**

- 1. Introduction**
- 2. Conceptualization of basic terms and the development of children rights**
  - The Concept of the Child
  - The Definition of Child Soldier and Child Labour
- 3. The legal framework for the protection of children in armed conflicts**
  - The Geneva Conventions and Additional Protocols I, II
  - The Declaration of the Rights of the Child
  - The Convention on the Rights of the Child

- The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- Paris Principles and Paris Commitments on recruitment and use of children in hostilities
- The African Charter on the Rights and Welfare of the Child and the Cape Town Principles
- The Worst Forms of Child Labour Convention
- International Criminal Court

#### **4. The role of international governmental and non-governmental organizations**

- The United Nations
- UN Special Representative of the Secretary-General on violence against children
- United Nations Children's Fund (UNICEF)
- International Labour Organization (ILO)
- Invisible Children
- Watchlist on Children and Armed Conflict
- Save the Children

#### **5. The case study of Lord's Resistance Army (LRA) in Uganda**

- Main motivations and reasons
- Recruitment of Child Soldiers
- Abuse of Child Soldiers

#### **6. The case study of the Islamic State (ISIS)**

- Main motivations and reasons

- Recruitment of Child Soldiers
- Abuse of Child Soldiers

## 7. Comparison

## 8. Conclusion

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## **List of Appendices**

Appendix no. 1: The Development of International Humanitarian Law (table)

Appendix no. 1: The Development of International Humanitarian Law (table)

The development of IHL	
1000 A.D.	Formation of initial humanitarian customs
	Formation of regional humanitarian customs (all over the world)
	Conclusion of treaties containing humanitarian clauses (Clauses on peace, armistice, capitulation)
1864	First Geneva Convention
1868	Declaration of St. Petersburg
1899	The Hague Conventions
1906	Review of the First Geneva Convention
1907	The Hague Conventions
1925	Geneva Protocol on chemical weapons
1929	"First" and "Third" Geneva Conventions
1949	1st, 2nd, 3rd and 4th Geneva Conventions + Common Article 3
1954	Convention for the protection of cultural property
1977	Additional Protocols to the 1949 Geneva Conventions
1980	Convention on the use of conventional weapons
1993	Convention on chemical weapons
1995	Protocol relating to blinding laser weapons
1996	Revision of the 1980 Convention
1997	Convention on anti-personnel mines (Ottawa Treaty)
1998	Adoption in Rome of the Statute of the International Criminal Court
1999	Protocol II to the 1954 Convention for the protection of cultural property
2000	Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
2003	Protocol on explosive remnants of war (Protocol V to the 1980 Convention)
2005	Protocol III to the 1949 Geneva Conventions relating to the adoption of an additional distinctive emblem (the "Red Crystal")
2008	Convention on cluster munitions

**Table 1.: Author's table for demonstration how the international humanitarian law evolved over time. Table is based on the source Bouvier, A. A. (2012). *International Humanitarian Law and the Law of Armed Conflict. Williamsburg: Peace Operations Training Institute***

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